



Planning, Environmental &
Development Services
Department



Orange County Board of Zoning Adjustment

Recommendations Booklet

Hearing Date:

April 6, 2023

Zoning Division

BOARD OF ZONING ADJUSTMENT (BZA)
ORANGE COUNTY GOVERNMENT

Board Member

District

Thomas Moses

1

John Drago (Vice Chair)

2

Juan Velez

3

Deborah Moskowitz (Chair)

4

Joel Morales

5

Charles J. Hawkins, II

6

Roberta Walton Johnson

At Large

BZA Staff

Ted Kozak, AICP

Chief Planner

Nick Balevich

Planner II

Jenale Garnett

Planner I

**ORANGE COUNTY BOARD OF ZONING ADJUSTMENT
RECOMMENDATIONS
APRIL 6, 2023**

Case #	Applicant	Commission District	Staff Recommendation	BZA	Page #
VA-23-04-011	Kenneth George Ashley	5	Denial	Variances #1 and #2, Approval with Conditions Variance #3, Denial	1
VA-23-04-012	Kenneth Kuehne	5	Denial	Approval with Conditions	12
VA-23-04-009	Adam Kane, Allie Kane	3	Approval with Conditions	Approval with Conditions	26
VA-23-03-002	Jade Malek	5	Variance #1, Approval with Conditions Variance #2, Denial	Approval with Conditions	39
SE-23-02-152	Juan Santa For Commercial Kennel	5	Continuance	Continuance	54
VA-23-04-008	Mike Fitzpatrick	1	Continuance	Continuance	73
VA-23-02-154	Michael Harding For Big Iron Intl	3	Approval with Conditions	Continuance	84
VA-23-04-005	Marie Augustin	6	Approval with Conditions	Approval with Conditions	98
VA-23-05-014	Robert Murdock For Pinecrest Creek Academy	5	Continuance	Continuance	113

Please note that approvals granted by the BZA are not final unless no appeals are filed within 15 calendar days of the BZA's recommendation and until the Board of County Commissioner (BCC) confirms the recommendation of the BZA on May 2, 2023.

ORANGE COUNTY ZONING DISTRICTS

Agricultural Districts

- A-1** Citrus Rural
- A-2** Farmland Rural
- A-R** Agricultural-Residential District

Residential Districts

- R-CE** Country Estate District
- R-CE-2** Rural Residential District
- R-CE-5** Rural Country Estate Residential District
- R-1, R-1A & R-1AA** Single-Family Dwelling District
- R-1AAA & R-1AAAA** Residential Urban Districts
- R-2** Residential District
- R-3** Multiple-Family Dwelling District
- X-C** Cluster Districts (where X is the base zoning district)
- R-T** Mobile Home Park District
- R-T-1** Mobile Home Subdivision District
- R-T-2** Combination Mobile Home and Single-Family Dwelling District
- R-L-D** Residential -Low-Density District
- N-R** Neighborhood Residential

Non-Residential Districts

- P-O** Professional Office District
- C-1** Retail Commercial District
- C-2** General Commercial District
- C-3** Wholesale Commercial District
- I-1A** Restricted Industrial District
- I-1/I-5** Restricted Industrial District
- I-2/I-3** Industrial Park District
- I-4** Industrial District

Other District

- P-D** Planned Development District
- U-V** Urban Village District
- N-C** Neighborhood Center
- N-A-C** Neighborhood Activity Center

SITE & BUILDING REQUIREMENTS

Orange County Code Section 38-1501. Basic Requirements

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
A-1	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-2	SFR - 21,780 (½ acre)	850	100	35	50	10	35	<i>a</i>
	Mobile Home - 2 acres							
A-R	108,900 (2½ acres)	1,000	270	35	50	25	35	<i>a</i>
R-CE	43,560 (1 acre)	1,500	130	35	50	10	35	<i>a</i>
R-CE-2	2 acres	1,200	250	45	50	30	35	<i>a</i>
R-CE-5	5 acres	1,200	185	50	50	45	35	<i>a</i>
R-1AAAA	21,780 (1/2 acre)	1,500	110	30	35	10	35	<i>a</i>
R-1AAA	14,520 (1/3 acre)	1,500	95	30	35	10	35	<i>a</i>
R-1AA	10,000	1,200	85	25 <i>h</i>	30 <i>h</i>	7.5	35	<i>a</i>
R-1A	7,500	1,200	75	20 <i>h</i>	25 <i>h</i>	7.5	35	<i>a</i>
R-1	5,000	1,000	50	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
R-2	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Two dwelling units (DUs), 8,000/9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	30	5 <i>h</i>	35	<i>a</i>
	Three DUs, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-3	One-family dwelling, 4,500	1,000	45 <i>c</i>	20 <i>h</i>	20 <i>h</i>	5	35	<i>a</i>
	Two DUs, 8,000/ 9,000	500/1,000 per DU	80/90 <i>d</i>	20 <i>h</i>	20 <i>h</i>	5 <i>h</i>	35	<i>a</i>
	Three dwelling units, 11,250	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10	35	<i>a</i>
	Four or more DUs, 15,000	500 per DU	85 <i>j</i>	20 <i>h</i>	30	10 <i>b</i>	35	<i>a</i>
R-L-D	N/A	N/A	N/A	10 for side entry garage, 20 for front entry garage	15	0 to 10	35	<i>a</i>
R-T	7 spaces per gross acre	Park size min. 5 acres	Min. mobile home size 8 ft. x 35 ft.	7.5	7.5	7.5	35	<i>a</i>
R-T-1								
SFR	4,500 <i>c</i>	1,000	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
Mobile home	4,500 <i>c</i>	Min. mobile home size 8 ft. x 35 ft.	45	25/20 <i>k</i>	25/20 <i>k</i>	5	35	<i>a</i>
R-T-2	6,000	SFR 500	60	25	25	6	35	<i>a</i>
(prior to 1/29/73)		Min. mobile home size 8 ft. x 35 ft.						
R-T-2 (after 1/29/73)	21,780 ½ acre	SFR 600	100	35	50	10	35	<i>a</i>
		Min. mobile home size 8 ft. x 35 ft.						

<i>District</i>	<i>Min. lot area (sq. ft.) m</i>	<i>Min. living area (sq. ft.)</i>	<i>Min. lot width (ft.)</i>	<i>Min. front yard (ft.) a</i>	<i>Min. rear yard (ft.) a</i>	<i>Min. side yard (ft.)</i>	<i>Max. building height (ft.)</i>	<i>Lake setback (ft.)</i>
NR	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80/90 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50/4 stories <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NAC	Non-residential and mixed use development, 6,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	50 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 11,250	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	50 feet/4 stories, 65 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse, 1,800	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
NC	Non-residential and mixed use development, 8,000	500	50	0/10 maximum, 60% of building frontage must conform to max. setback	15, 20 adjacent to single-family zoning district	10, 0 if buildings are adjoining	65 feet <i>k</i>	<i>a</i>
	One-family dwelling, 4,500	1,000	45 <i>c</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Two DUs, 8,000	500 per DU	80 <i>d</i>	20	20	5	35/3 stories <i>k</i>	<i>a</i>
	Three DUs, 11,250	500 per DU	85	20	20	10	35/3 stories <i>k</i>	<i>a</i>
	Four or more DUs, 1,000 plus 2,000 per DU	500 per DU	85	20	20	10	65 feet, 80 feet with ground floor retail <i>k</i>	<i>a</i>
	Townhouse	750 per DU	20	25, 15 for rear entry driveway	20, 15 for rear entry garage	0, 10 for end units	40/3 stories <i>k</i>	<i>a</i>
P-O	10,000	500	85	25	30	10 for one- and two-story bldgs., plus 2 for each add. story	35	<i>a</i>
C-1	6,000	500	80 on major streets (see Art. XV); 60 for all other streets <i>e</i> ; 100 ft. for corner lots on major streets (see Art. XV)	25	20	0; or 15 ft. when abutting residential district; side street, 15 ft.	50; or 35 within 100 ft. of all residential districts	<i>a</i>

District	Min. lot area (sq. ft.) <i>m</i>	Min. living area (sq. ft.)	Min. lot width (ft.)	Min. front yard (ft.) <i>a</i>	Min. rear yard (ft.) <i>a</i>	Min. side yard (ft.)	Max. building height (ft.)	Lake setback (ft.)
C-2	8,000	500	100 on major streets (see Art. XV); 80 for all other streets <i>f</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	50; or 35 within 100 feet of all residential districts	<i>a</i>
C-3	12,000	500	125 on major streets (see Art. XV); 100 for all other streets <i>g</i>	25, except on major streets as provided in Art. XV	15; or 20 when abutting residential district	5; or 25 when abutting residential district; 15 for any side street	75; or 35 within 100 feet of all residential districts	<i>a</i>

District	Min. front yard (feet)	Min. rear yard (feet)	Min. side yard (feet)	Max. building height (feet)
I-1A	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-1 / I-5	35	25	25	50, or 35 within 100 ft. of any residential use or district
I-2 / I-3	25	10	15	50, or 35 within 100 ft. of any residential use or district
I-4	35	10	25	50, or 35 within 100 ft. of any residential use or district

NOTE: These requirements pertain to zoning regulations only. The lot areas and lot widths noted are based on connection to central water and wastewater. If septic tanks and/or wells are used, greater lot areas may be required. Contact the Health Department at 407-836-2600 for lot size and area requirements for use of septic tanks and/or wells.

FOOTNOTES

<i>a</i>	Setbacks shall be a minimum of 50 feet from the normal high water elevation contour on any adjacent natural surface water body and any natural or artificial extension of such water body, for any building or other principal structure. Subject to the lakeshore protection ordinance and the conservation ordinance, the minimum setbacks from the normal high water elevation contour on any adjacent natural surface water body, and any natural or artificial extension of such water body, for an accessory building, a swimming pool, swimming pool deck, a covered patio, a wood deck attached to the principal structure or accessory structure, a parking lot, or any other accessory use, shall be the same distance as the setbacks which are used per the respective zoning district requirements as measured from the normal high water elevation contour.
<i>b</i>	Side setback is 30 feet where adjacent to single-family district.
<i>c</i>	For lots platted between 4/27/93 and 3/3/97 that are less than 45 feet wide or contain less than 4,500 sq. ft. of lot area, or contain less than 1,000 square feet of living area shall be vested pursuant to Article III of this chapter and shall be considered to be conforming lots for width and/or size and/or living area.
<i>d</i>	For attached units (common fire wall and zero separation between units) the minimum duplex lot width is 80 feet and the duplex lot size is 8,000 square feet. For detached units the minimum duplex lot width is 90 feet and the duplex lot size is 9,000 square feet with a minimum separation between units of 10 feet. Fee simple interest in each half of a duplex lot may be sold, devised or transferred independently from the other half. For duplex lots that: <ul style="list-style-type: none"> (i) are either platted or lots of record existing prior to 3/3/97, and (ii) are 75 feet in width or greater, but are less than 90 feet, and (iii) have a lot size of 7,500 square feet or greater, but less than 9,000 square feet are deemed to be vested and shall be considered as conforming lots for width and/or size.
<i>e</i>	Corner lots shall be 100 [feet] on major streets (see Art. XV), 80 [feet] for all other streets.
<i>f</i>	Corner lots shall be 125 [feet] on major streets (see Art. XV), 100 [feet] for all other streets.
<i>g</i>	Corner lots shall be 150 [feet] on major streets (see Art. XV), 125 [feet] for all other streets.
<i>h</i>	For lots platted on or after 3/3/97, or unplatted parcels. For lots platted prior to 3/3/97, the following setbacks shall apply: R-1AA, 30 feet, front, 35 feet rear, R-1A, 25 feet, front, 30 feet rear, R-1, 25 feet, front, 25 feet rear, 6 feet side; R-2, 25 feet, front, 25 feet rear, 6 feet side for one (1) and two (2) dwelling units; R-3, 25 feet, front, 25 feet, rear, 6 feet side for two (2) dwelling units. Setbacks not listed in this footnote shall apply as listed in the main text of this section.
<i>j</i>	Attached units only. If units are detached, each unit shall be placed on the equivalent of a lot 45 feet in width and each unit must contain at least 1,000 square feet of living area. Each detached unit must have a separation from any other unit on site of at least 10 feet.
<i>k</i>	Maximum impervious surface ratio shall be 70%, except for townhouses, nonresidential, and mixed use development, which shall have a maximum impervious surface ratio of 80%.
<i>m</i>	Based on gross square feet.

These requirements are intended for reference only; actual requirements should be verified in the Zoning Division prior to design or construction.

VARIANCE CRITERIA:

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for a zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

1. **Special Conditions and Circumstances** – Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed zoning variance.
2. **Not Self-Created** – The special conditions and circumstances do not result from the actions of the applicant. A self-created hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
3. **No Special Privilege Conferred** – Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.
4. **Deprivation of Rights** – Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of the property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval.
5. **Minimum Possible Variance** – The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. **Purpose and Intent** – Approval of the zoning variance will be in harmony with the purpose and intent of this Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

SPECIAL EXCEPTION CRITERIA:

Subject to Section 38-78, in reviewing any request for a Special Exception, the following criteria shall be met:

1. The use shall be consistent with the Comprehensive Policy Plan.
2. The use shall be similar and compatible with the surrounding area and shall be consistent with the pattern of surrounding development.
3. The use shall not act as a detrimental intrusion into a surrounding area.
4. The use shall meet the performance standards of the district in which the use is permitted.
5. The use shall be similar in noise, vibration, dust, odor, glare, heat producing and other characteristics that are associated with the majority of uses currently permitted in the zoning district.
6. Landscape buffer yards shall be in accordance with Section 24-5, Orange County Code. Buffer yard types shall track the district in which the use is permitted.

In addition to demonstrating compliance with the above criteria, any applicable conditions set forth in Section 38-79 shall be met.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#5**

Case #: **VA-23-04-011**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): KENNETH GEORGE ASHLEY

OWNER(s): MAKHTUHA SULTANA

REQUEST: Variances in the R-1A zoning district as follows:

- 1) To allow a 6 ft. high fence in the front yard in lieu of 4 ft. high.
- 2) To allow an 8 ft. high fence in the front yard in lieu of 4 ft. high.
- 3) To allow a 6 ft. high fence with 6 ft. high gates within the clear view triangle.

PROPERTY LOCATION: 1214 Myrtle Street, Orlando, FL 32807, west side of Myrtle St., north of Old Cheney Hwy., and east of N. Semoran Blvd.

PARCEL ID: 21-22-30-4084-03-040

LOT SIZE: +/- 0.36 acres (16,007 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 53

DECISION: Recommended **APPROVAL** of the Variance requests **#1** and **#2**, in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions as amended; and, **DENIAL** of the Variance request **#3**, in that there was no unnecessary hardship shown on the land; and further, it does not meet the requirements governing Variances as spelled out in Orange County Code, Section 30-43(3) (Motion by Joel Morales, Second by John Drago; unanimous; 6 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Juan Velez):

1. Development shall be in accordance with the site plan and metal fence and gate details received February 23, 2023, as modified by condition of approval #4 subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The 25 ft. portion of the 8 ft. high wood fence proposed along the side property lines within the front yard setback, shall be modified to be a minimum of 50% transparent.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that no comments were received in favor or in opposition to the request.

The applicant and owner described that the rationale for the height and location of the 6 ft. high metal fence in the front yard, 6 ft. high metal fence with 6 ft. high metal gate within the clear view triangle, and the 8 ft. high wooden fence within the front yard was for safety reasons and protection of their property.

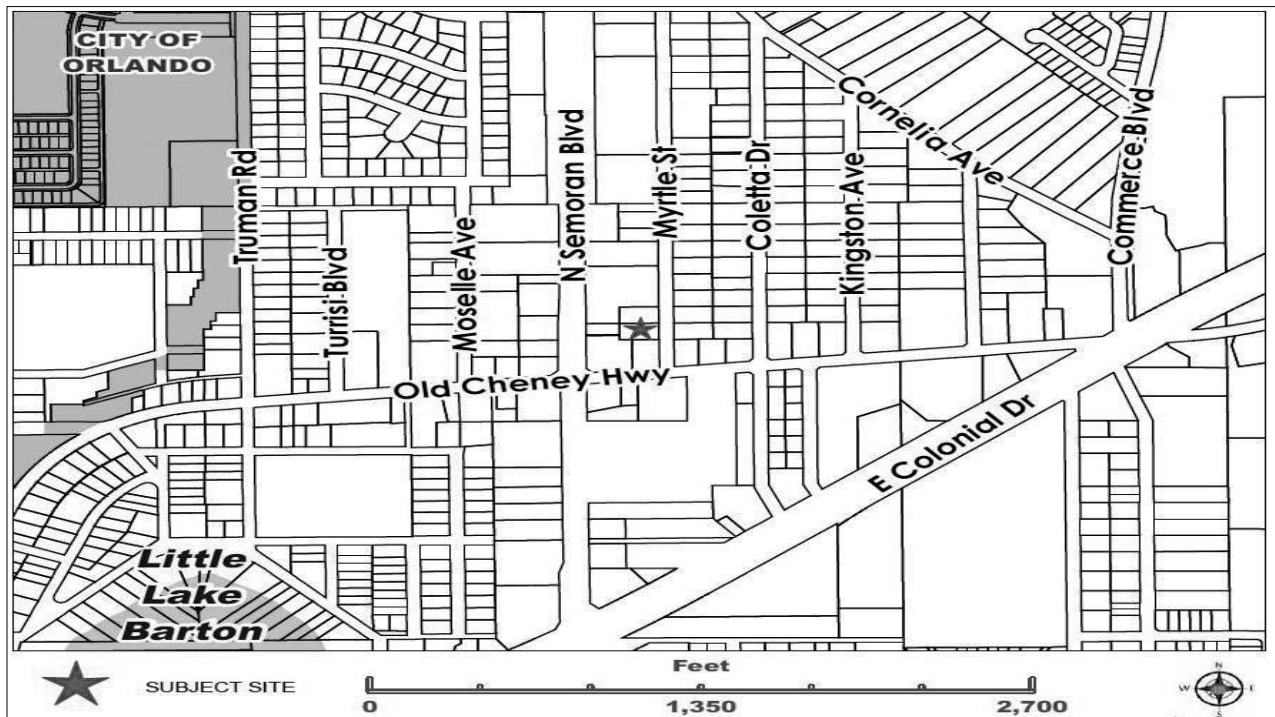
There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the fence and gate heights as well as their location in the front yard setback and clear view triangle. They determined that there are security concerns present on the property, but that there are also safety concerns related to encroachment into the clear view triangle and decided that the applicant has other alternatives. The BZA unanimously recommended approval of Variances #1 and #2, but denial of Variance #3 by a 6-0 vote, with one absent, subject to the four (4) conditions in the staff report and deleting Condition #5.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	C-2, R-1A	R-1A	C-2, C-1
Future Land Use	LDR	LDR	C, LDR	LDR	C, O
Current Use	Single-family residential	Single-family residential	Retail, Single-family residential	Single-family residential	Retail

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. It is also within the S.R. 436 / S.R. 50 Corridor Overlay District which prohibits specific uses including labor pools, check cashing businesses, tattoo/body art shop, pawnshops, bail bond agencies, fortune tellers, and bottle clubs. The overlay does not impact residential uses. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The area around the subject site is comprised of single-family homes, and retail to the south and west. The subject property is a 0.36 acre lot, located in the J.J. Kates Subdivision, recorded in 1948, and is considered to be a conforming lot of record. It is developed with a 3,831 gross sq. ft. single-family home (B20022282), constructed in 2022. There is a drainage ditch that runs along the east of the property adjacent to Myrtle Street. The owner purchased the property in 2020.

Proposed is the installation of 100 linear ft. of a 6 ft. high metal fence along the front property line adjacent to Myrtle St., with a 6 ft. high gate, in lieu of 4 ft. high, requiring Variance #1. Also, there is a request to install 420 linear ft. of an 8 ft. high opaque wooden fence along the rear and sides of the property, of which 25 linear ft. of the fence encroaches into the front yard setback along each side property line, requiring Variance #2. Per Sec. 38-1408 of Orange County Code, fences in the R-1A district are limited to a maximum height of 4 ft. in the front yard setback, unless abutting a collector or arterial right-of-way, whereas Myrtle Street is considered a local street.

Further, the proposed 6 ft. high metal fence with a 6 ft. high gate encroaches into the clear view triangle, requiring Variance #3. Per Sec. 38-1408 (b), "a fence of any style or material shall maintain a clear view triangle from the right-of-way line for visibility from driveways on the lot or on an adjacent lot. The clear view triangle area for a driveway is formed on each side of a driveway by measuring a distance of fifteen (15) feet along the right-of-way and fifteen (15) feet along the edge of the driveway."

Staff has reviewed the request and recommends denial since there are alternatives to the requests. Although the Myrtle Street frontage has no existing sidewalk and a drainage ditch otherwise preventing a sidewalk, the provision of a 6 ft. high metal fence and 8 ft. high opaque fence in the front yard setback could obstruct the view of motorists. The 8 ft. high opaque wooden fence, along with the 6 ft. high metal fence and gate within the clear view triangle is a safety concern. Furthermore, the fencing and gate could be reduced in height and relocated to meet code, eliminating the need for the Variances. There have not been similar approved

Variance requests in the surrounding area. A permit, F22026286, to install the fencing is on hold pending the outcome of this request.

As of the date of this report, no comments have been received in favor or in opposition to this request.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions and circumstances, as the proposed fence and gate height and location could be modified to comply with the requirements of the code.

Not Self-Created

The need for the Variances is self-created since the fencing and gate could be constructed in a manner which would not impair sight distance visibility and safety of pedestrians.

No Special Privilege Conferred

Granting the Variances as requested will confer special privilege that is denied to other properties in the same area and zoning district, as the applicant could relocate or modify the improvements requested to a conforming height and location. Furthermore, there have not been other similar requests approved within the area.

Deprivation of Rights

There is no deprivation of rights as fences and gates could be installed without the need for the requests since they could be installed in a location and manner compliant with code.

Minimum Possible Variance

The requested Variances are not the minimum possible, as the applicant could relocate or modify the height of the fence and gate to eliminate the need for the Variances.

Purpose and Intent

Approval of the Variances will not be in harmony with the purpose and intent of the zoning regulations since the proposed height and location of the fence and gates could impair the visibility of pedestrians and motorists along Myrtle Street. Further, no other similar requests have been granted within the immediate area and there are options to eliminate the need for the Variances, and thereby minimizing the impact to the surrounding area.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and metal fence and gate details received February 23, 2023, as modified by condition of approval #4 subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The 25 ft. portion of the 8 ft. high wood fence proposed along the side property lines within the front yard setback, shall be modified to be a minimum of 50% transparent.
5. Prior to the issuance of a building permit, the property owner shall record in the Official Records of Orange County an Indemnification/Hold Harmless Agreement which indemnifies and holds harmless Orange County from any claims, lawsuits, and any other damage caused by the locating of the fence in the clear view triangles adjacent to Myrtle Street as requested by the property owner, and shall inform all interested parties, including any future purchasers of the property, that the fence is located within the clear view triangles and that the property owner, and the property owner's heirs, successors, and assigns shall be responsible for any claims, lawsuits, and other damage caused by installing the fence in that location.

C: Makhtuha Sultana
1214 Myrtle Street
Orlando, FL 32807

COVER LETTER

Humayun Kabir
1214 Myrtle St
Orlando, FL 32807

Board of Zoning Adjustment (BZA) Variance Application – Fence

January 31, 2023

Dear Zoning Division,

With this application I am requesting a variance for a fence to be built on 1214 Myrtle St, Orlando, FL 32807, a newly built single family residence. Due to the current rules and regulations, the height for a fence in the front setback area is limited to a maximum of 4 ft. I'm requesting an increase of this limit to 6 ft. for the fence directly on the front property line and 8 ft. for the fence on the sides positioned in the front setback area, so that I'm able to install a proper gate to secure my property and keep my family safe. As well as securing my property by having a fence that is tall enough to prevent any trespassers from entering my property.

The proposed fence will be a metal or chain-link fence, (metal is preferred), 6 ft. in height located on the front property line. The fence material for the other portions of the property, (rear and sides), will be wood and will also be on their respective property lines. The square feet of the whole fence, (front, rear, and sides), will be 520 square feet. The square feet for the fence on just the front property line will be 100 square feet. The current code requires that a fence in the front setback area does not exceed 4 ft.

Special Conditions and Circumstances

The area this property is located in has a reputation of unwanted people trespassing and loitering where they shouldn't be. This is the case for my property, as well. The 7-Eleven neighboring my property has a concrete brick wall that is about 5 and 1/2 ft. high, and that wall has been jumped over several times by trespassers onto my property, I have video evidence of this fact. There have also been countless robberies in the middle of the night of several houses on the same road as me, this was confirmed by the person in charge of neighborhood watch, Scott Brady. Taking all this into consideration, it isn't plausible that a 4 ft. high fence is enough to ensure the safety of my family and property.

Not Self-Created

These circumstances are not the result of my own actions, instead it is a result of the area surrounding my property, and the reputation that it has to be unsafe; proven by the video evidence I have of people trespassing my property and loitering in the surrounding areas. All of these are factors I have no control over.

No Special Privilege Conferred

This variance being requested will not provide me with any special privilege, rather it is granting me a privilege I believe everybody has a right to, which is a sense of safety and privacy for my family and property.

Deprivation of Rights

Within my neighborhood, there are various fences on the front property line where the fences are more than 4 ft. in height, it seems unfair that I'm not able to install a fence higher than 4 ft. if others were able to do so. Not being able to install a fence tall enough to protect my property would also cause immense hardship as my family and I will constantly have to be aware of the surroundings of my property and are never fully sure if we are safe and secure in our own house, which is also how we currently feel without any fence installed at all. Not having a fence that is tall enough to protect from trespassers would ultimately have the same effect of having no fence at all to protect my family and property.

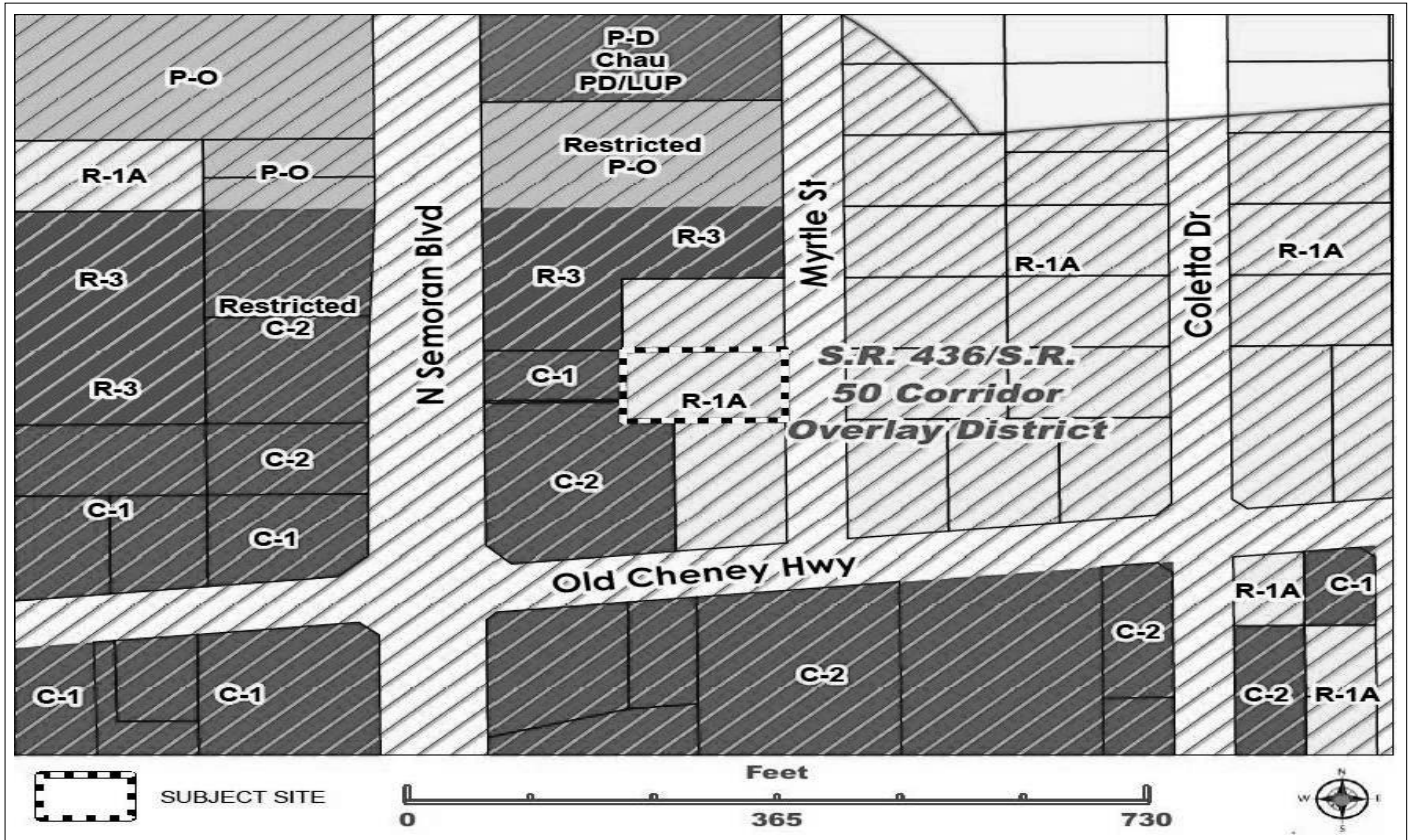
Minimum Possible Variance

The minimum variance that is possible is 6 ft, as it makes it harder to be able to be jumped over and is taller than the wall built by 7-Eleven that has already been jumped over by trespassers entering my property. This is also needed to install a proper gate for the fence.

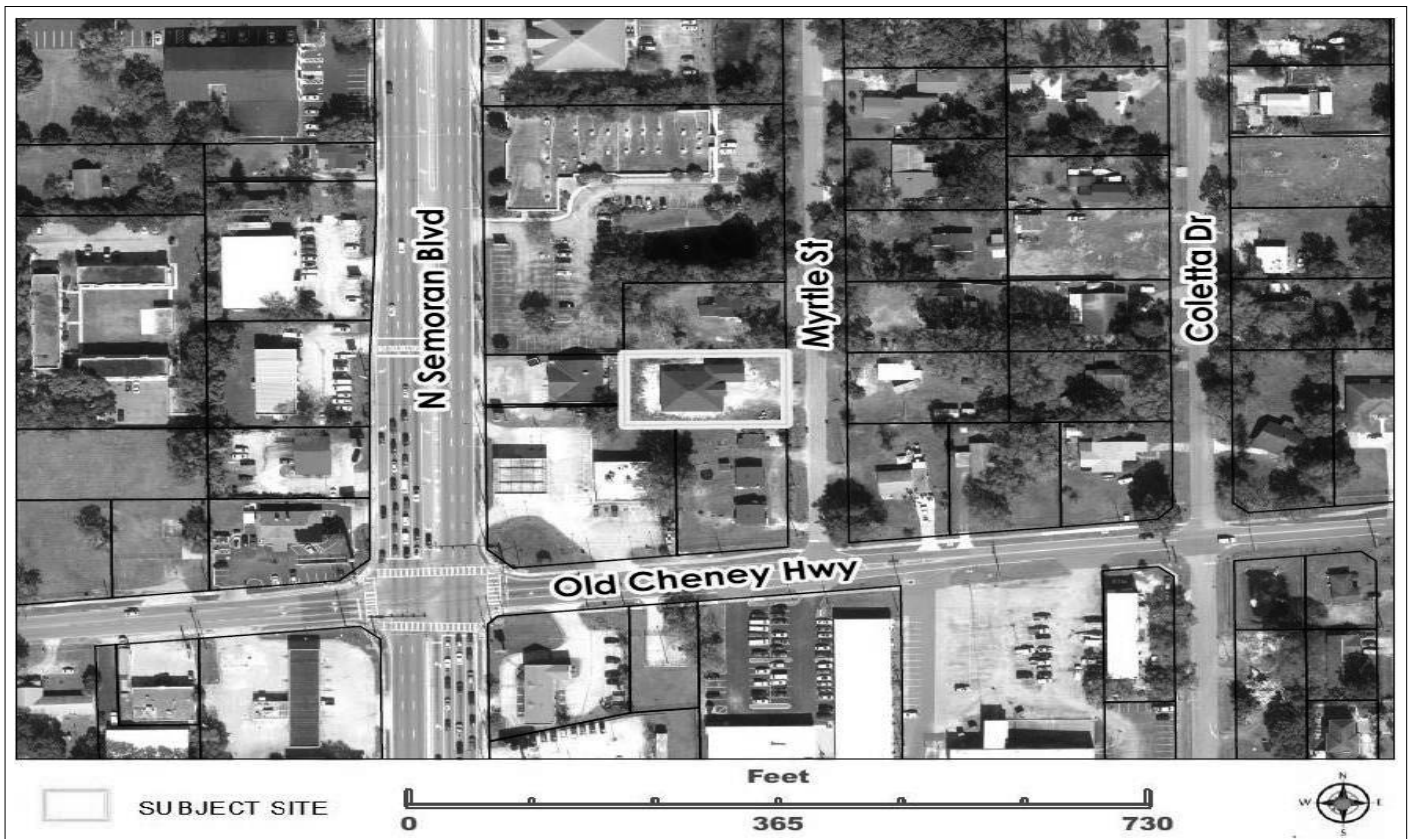
Purpose and Intent

The main purpose of installing a fence on a property is to protect those living within the boundaries of said fence. If, once installed, this fence does not properly protect those within, it proves no purpose and would be completely worthless. I'm requesting this variance so that once this fence is installed, and if this variance is approved, this fence will properly protect my family and property.

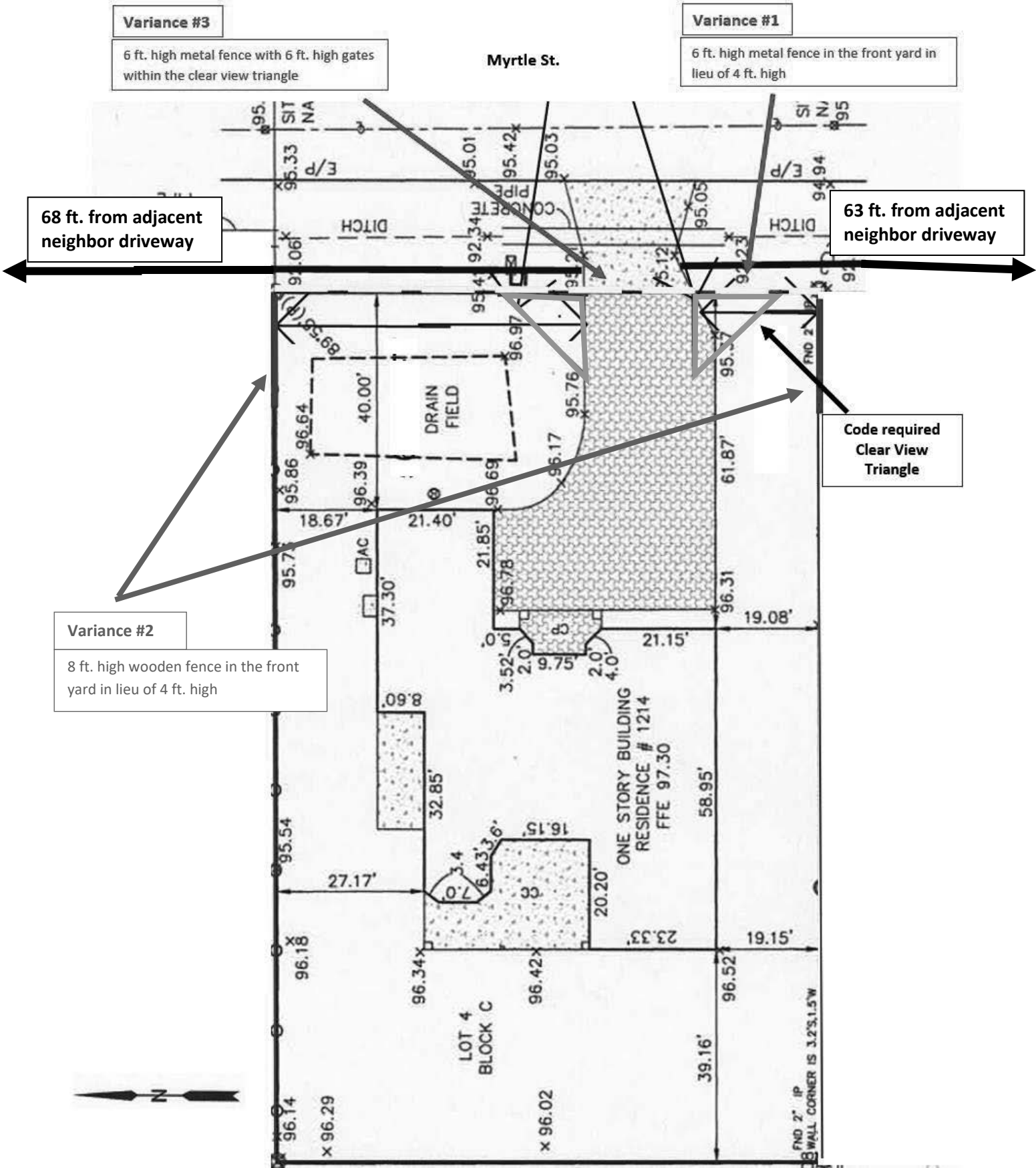
ZONING MAP



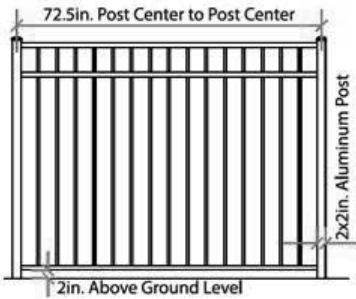
AERIAL MAP



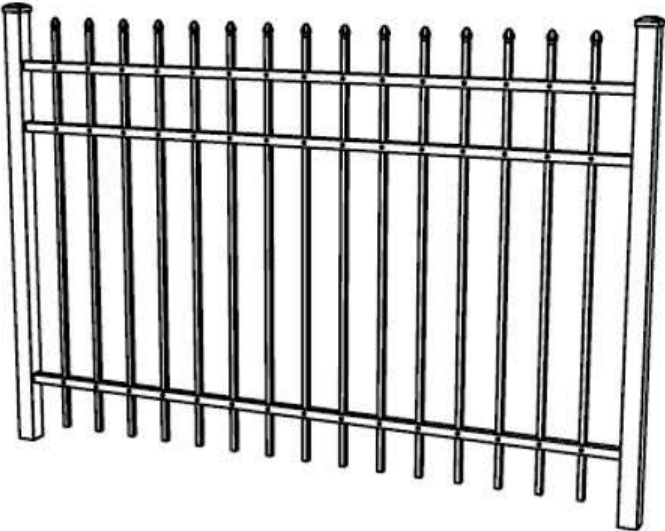
SITE PLAN



PROPOSED FENCE DETAILS

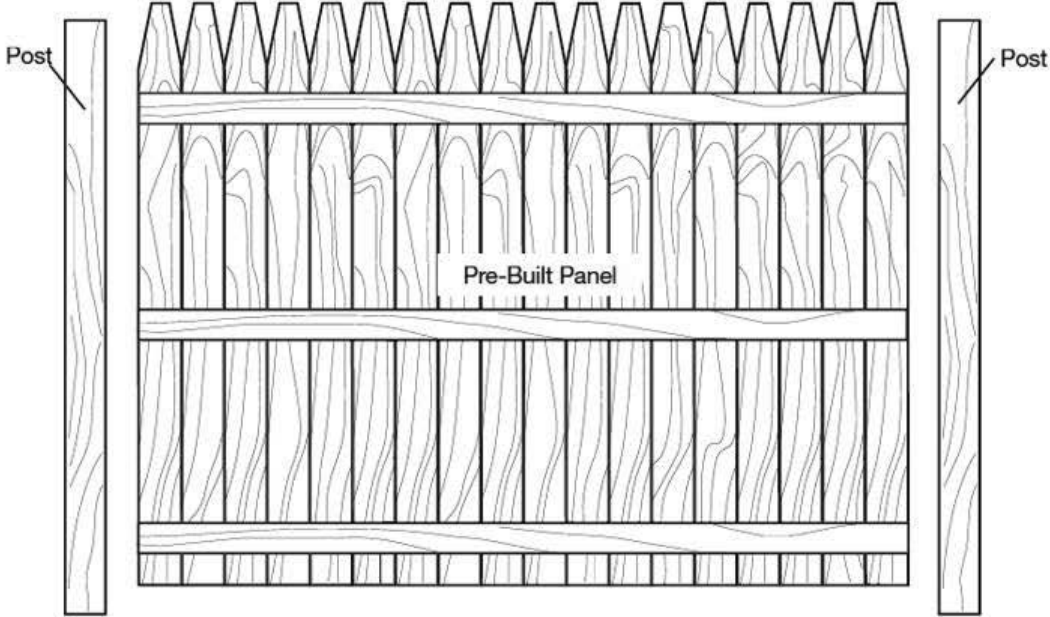


6 ft. metal fence



Orleans*

8 ft. wooden fence



Diameters based on post size:

10 1/2" for 6" x 6" post
8" for 4" x 4" post

SITE PHOTOS



Facing west from Myrtle St. towards front of subject property



Front porch, facing east towards location of proposed 6 ft. metal fence and gate

SITE PHOTOS



Facing southwest from Myrtle St. towards proposed 8 ft. wooden fence location



Facing northwest from Myrtle St. towards drain field and proposed 8 ft. wooden fence location

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#5**

Case #: **VA-23-04-012**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): KENNETH KUEHNE

OWNER(s): KENNETH KUEHNE, NOAH KUEHNE

REQUEST: Variance in the A-2 zoning district to allow a detached accessory dwelling unit (ADU) with a living area of 1,222 sq. ft. in lieu of 1,000 sq. ft.

PROPERTY LOCATION: 20527 Quinella St., Orlando, FL 32833, north side of Quinella St., east of Bancroft Blvd., southwest of State Road 520, north of S.R. 528.

PARCEL ID: 24-23-32-9628-00-820

LOT SIZE: +/- 2 acres (1.9 acres upland)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 34

DECISION: Recommended **APPROVAL** of the Variance request in that the Board finds it meets the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Joel Morales, Second by Roberta Walton Johnson; unanimous; 6 in favor: Thomas Moses, Roberta Walton Johnson, John Drago, Deborah Moskowitz, Joel Morales, Charles Hawkins, II; 0 opposed; 1 absent: Juan Velez):

1. Development shall be in accordance with the site plan and elevations received February 21, 2023, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff

noted that one (1) comment was received in support of the request, and no comments were received in opposition.

The applicant discussed the staff recommendation and stated that they were not aware of the waterway easement which would only leave 1.9 upland acres to develop an ADU, thus creating the need for a variance for the proposed square footage. Additionally, they noted that ADUs are common in the surrounding area.

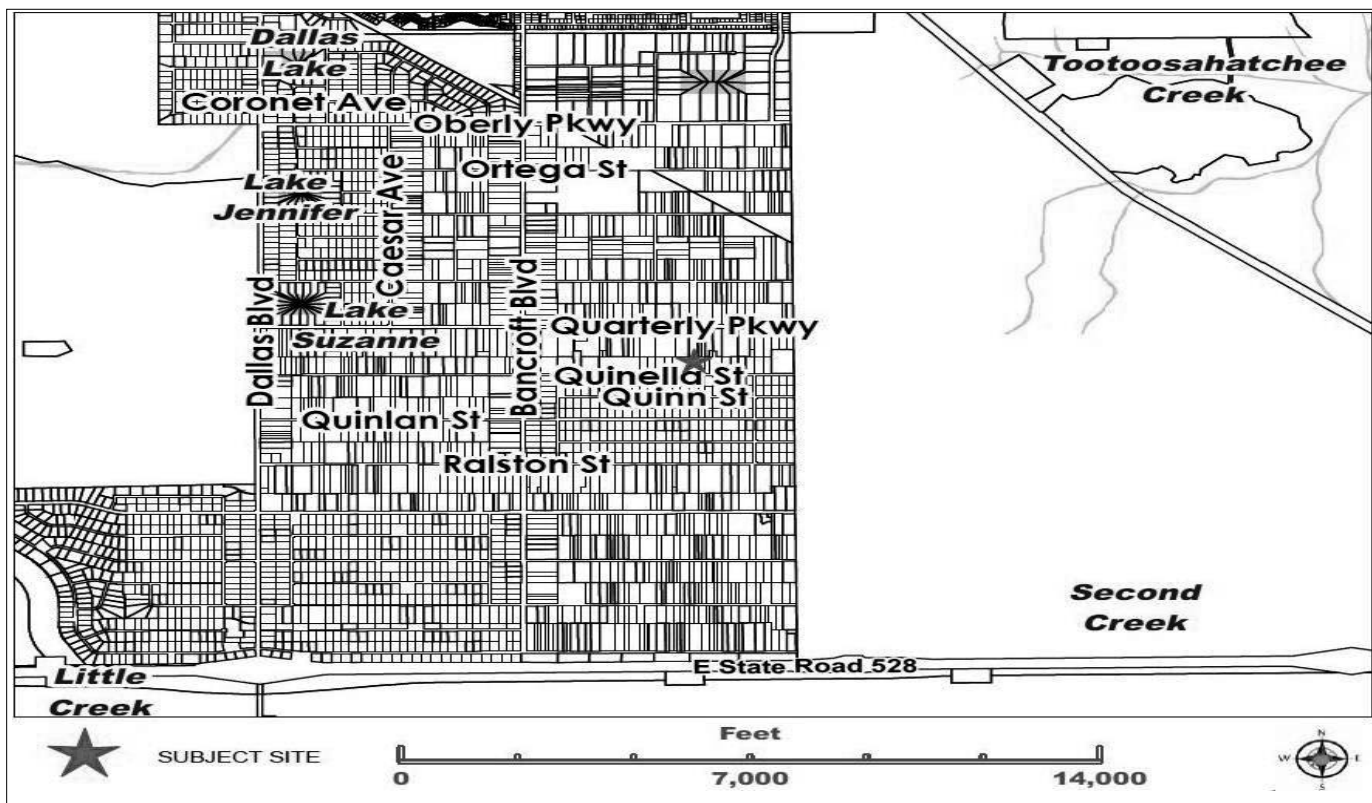
There was no one in attendance to speak in favor or in opposition to the request.

The BZA determined the location of the ADU would not be visible from the street, that there was a considerable amount of space between properties, and that there are several ADUs in the surrounding area of various sizes. The BZA unanimously recommended approval of the Variance by a 6-0 vote, with one absent, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of a variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Single-family residence under construction	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-2, Farmland Rural zoning district, which allows agricultural uses, mobile homes, and single-family homes with accessory structures on larger lots. The Future Land Use Rural/Agricultural (R), which is consistent with the A-2 zoning district.

The area around the subject site consists of single-family homes. The subject property is a vacant +/- 2 acre parcel of land, of which +/- 1.9 acres is upland/developable. It was created by a lot split in April 2022 (LS-22-03-014). It is located in the Rocket City Unit 3A subdivision, recorded in 1964, and is considered to be a conforming lot of record. There is a 40 ft. waterway easement that runs along the rear of the property, but is not affected by the Variance request. It was purchased by the current owners in December 2021. The owner is currently in the process of constructing a single story 3,944 gross sq. ft. single-family home with 2,449 sq. ft. of living area (B21012249), which complies with all zoning requirements, including setbacks.

The proposal is to construct a 2,404 gross sq. ft. detached Accessory Dwelling Unit (ADU) that contains 1,222 sq. ft. of living area. Per Sec. 38-1426 (b) (3) (d) of the Orange County Code, "The maximum living area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary dwelling unit living area or one thousand (1,000) square feet, whichever is less, and shall not contain more than two (2) bedrooms. For lots/parcels equal to or greater than two (2) developable acres, the maximum living area of an accessory dwelling unit shall not exceed fifty percent (50%) of the primary dwelling unit living area or one thousand five-hundred (1,500) square feet, whichever is less". The proposed ADU meets the maximum two (2) bedroom requirement and meets the exterior design standards requiring the same exterior finish, materials and architectural details as required per Sec. 38-1426 (b)(3) (j). However, the 1,222 sq. ft. of living area exceeds the maximum 1,000 sq. ft. of living area, requiring a Variance.

Staff is recommending denial of this request. Based on staff analysis, a smaller, code compliant ADU could be designed since this is new construction, thereby eliminating the Variance. The intent and purpose of the ADU code is to support greater infill development and affordable housing opportunities, while maintaining the character of existing neighborhoods. As such, Accessory Dwelling Units do not count towards the maximum density and are charged impact fees at a lower rate than 2 single-family homes and are therefore intentionally meant to be small in relation to the home and property, thus the limitation on maximum square footage and number of bedrooms.

The Orange County Environmental Protection Division has no wetland concerns.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	20 ft.
Min. Lot Width:	100 ft.	180 ft.
Min. Lot Size:	21,780 sq. ft. (1/2 acre)	2 acres (1.9 acres upland)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	Not allowed	Not allowed
Rear:	10 ft.	213.9 ft. (North)
Side:	10 ft.	59.3 ft. (East) 61 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

There are no special conditions or circumstances peculiar to the land or building which are not applicable to other lands in the same zoning district. The owner could reduce the size of the ADU to meet code.

Not Self-Created

The request is self-created in that it is new construction and there are alternatives to build a code compliant ADU.

No Special Privilege Conferred

Granting the Variance as requested will confer special privilege since the size of the ADU could be designed to meet code.

Deprivation of Rights

There is no deprivation of rights since there are other options to meet the living area requirements for an ADU.

Minimum Possible Variance

The request is not the minimum since the design of the ADU can be reduced to meet code.

Purpose and Intent

Approval of this request will not be in harmony with the purpose and intent of the Code, which is to allow the construction of an ADU as a secondary and accessory structure to the house, with a less predominant size and scale.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received February 21, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Kenneth Kuehne
20427 Quinlan Street
Orlando, FL 32833

Orange County Zoning

We (Kenneth Kuehne and Noah Kuehne) purchased parcel #24-23-32-9628-00-820 address 20527 Quinella St. Orlando , FL 32833 to build a main home for Noah and his family with an ADU for Kenneth and his wife. We have applied for a permit for a main house with 2249sq ft which was approved. Our permit for an ADU was declined due to it being 1222sq ft. Our property is 2.09 acres with no wetlands but does have a 40' easement with a canal in the back which makes our property 1.90 acres of uplands. We are requesting a variance to build the ADU at 1222sq ft instead of the 1000sq ft limit for properties under 2 acres. ADU will be 168' from back of property, 61' from left side, 59' from right side and 228' from front of property. ADU is 1 story and approximately 20ft tall.

Variance Criteria

Variance Criteria: Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. No application for a zoning variance will be approved unless the Board of Zoning Adjustment finds that the following standards are met. Please fill out the criteria on pages 13-14

1. Special Conditions and Circumstances - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

We bought parcel #24-23-32-9628-00-820 address 20527 Quinella St. Orlando, FL 32833 to build a main home with an ADU. We have applied for a permit for a main house with 2249sq ft which was approved. Our permit for an ADU was declined due to it being 1222sq ft. Our property is 2.09 acres with no wetlands but does have a 40' easement with a canal in the back which makes our property 1.90 acres of uplands. We are requesting a variance to build the ADU at 1222sq ft instead of the 1000sq ft limit for properties under 2 acres

2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

We purchased this property because it is 2.09 acres. We thought that was enough to build our home and ADU on.

3. No Special Privilege Conferred - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

Okay, agreed

COVER LETTER

4. Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

Need parents to live in ADU to be close by. There are many ADUs in the Wedgefield neighborhood.

5. Minimum Possible Variance - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

We want a variance to build a 1222sq ft ADU instead of a 1000sq ft ADU. Kenneth Kuehne and his wife Teresa Kuehne will live in the ADU. Noah Kuehne and his family will live in the main home.

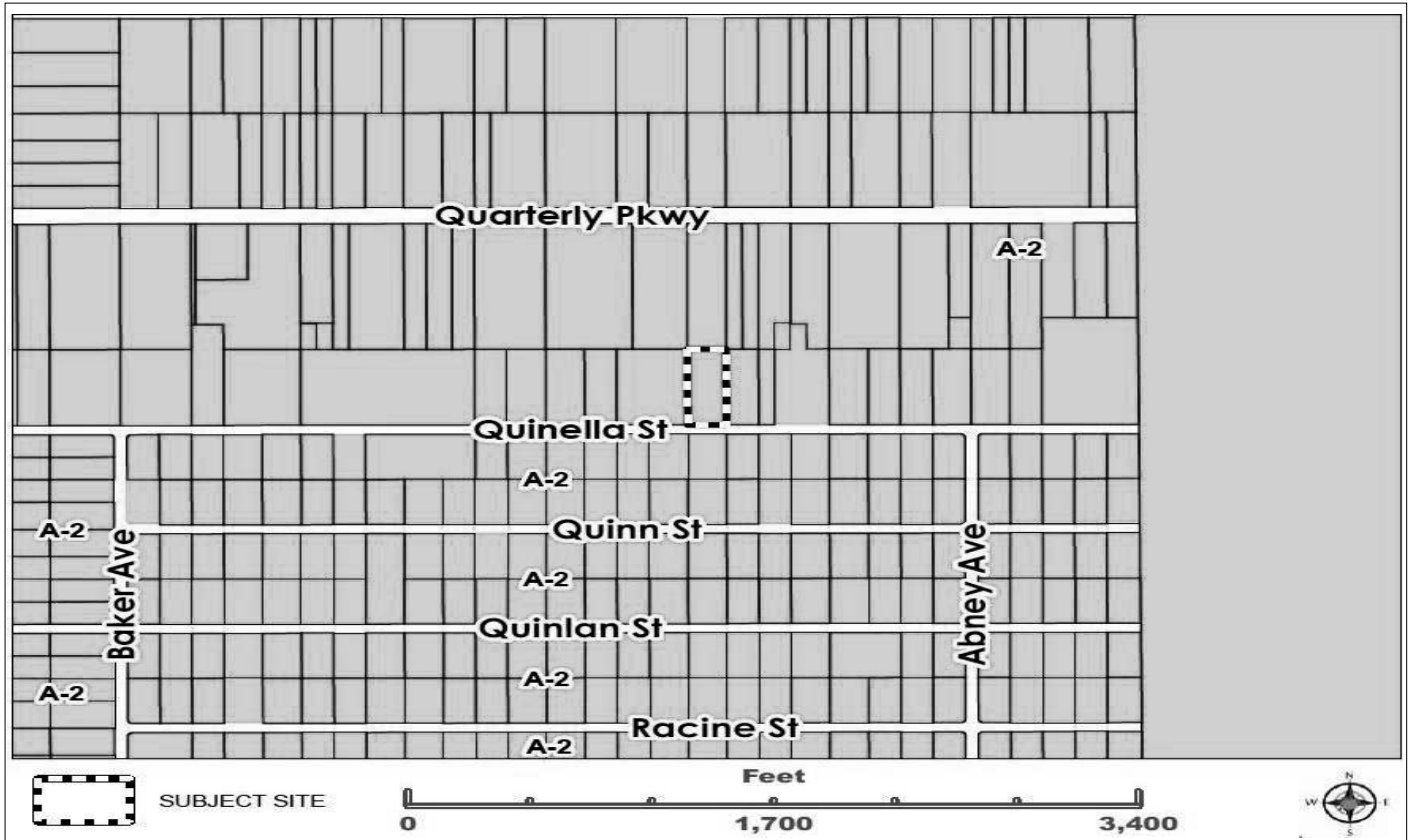
6. Purpose and Intent - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Okay, agreed


Kenneth Kuehne


Noah Kuehne

ZONING MAP

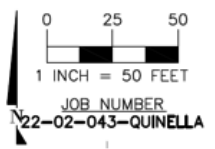
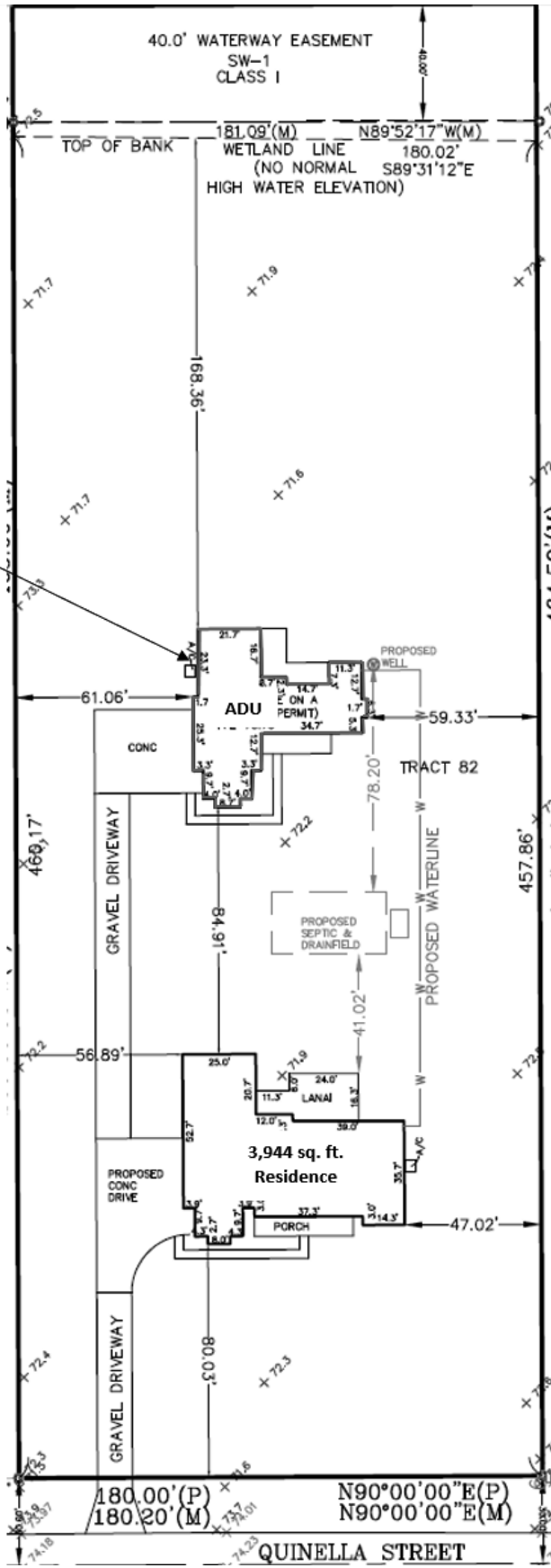


AERIAL MAP

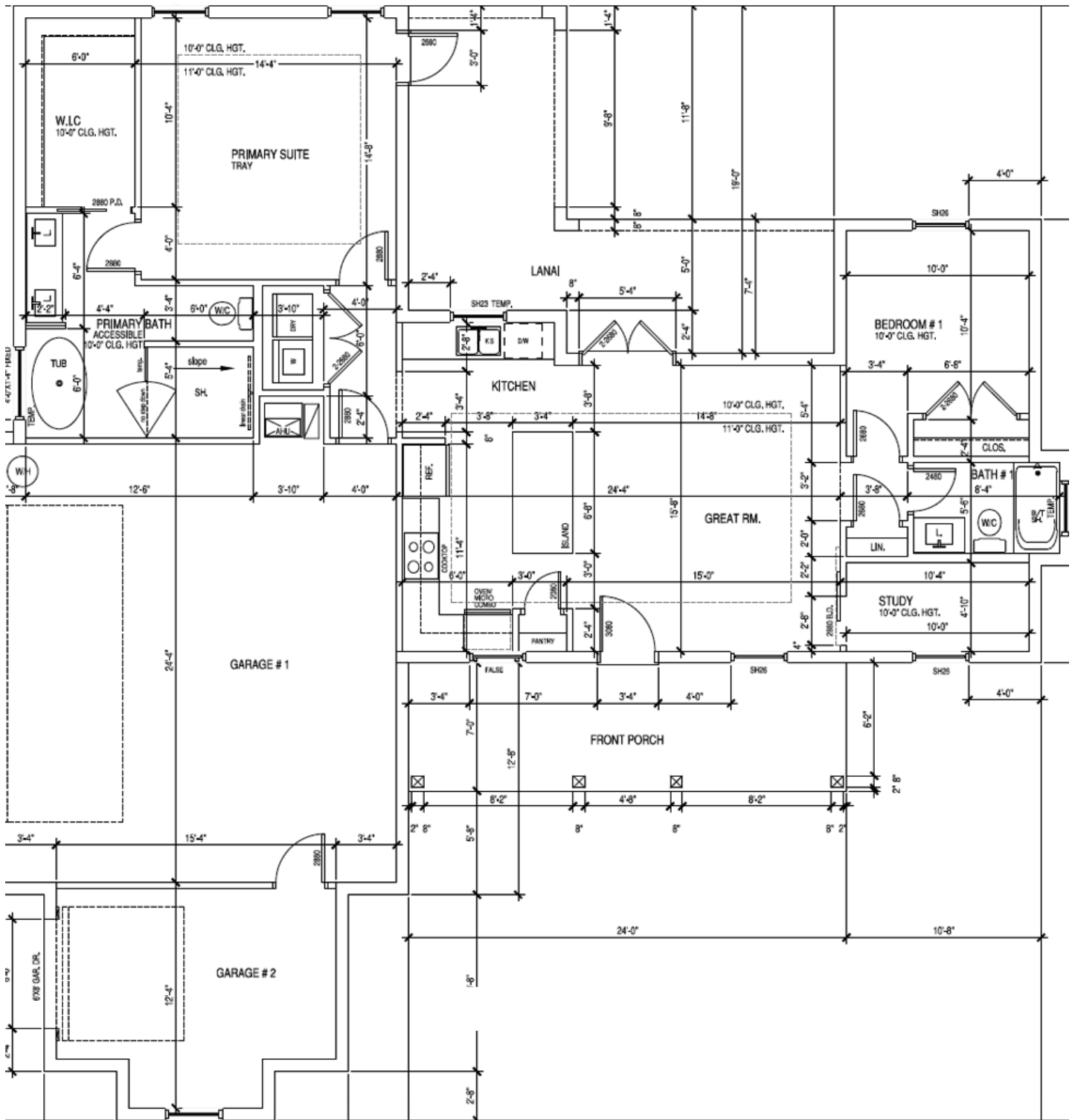


SITE PLAN

ADU with a living area of 1,222 sq. ft. in lieu of 1,000 sq. ft.



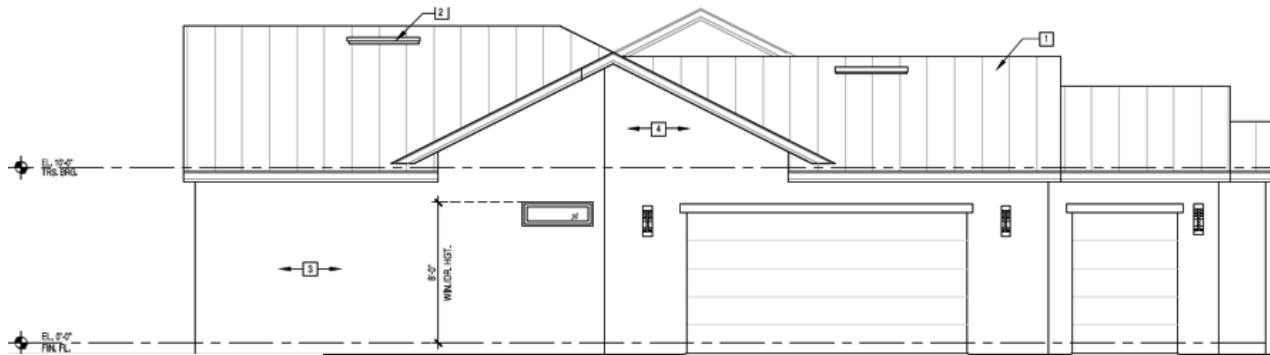
ADU FLOOR PLAN



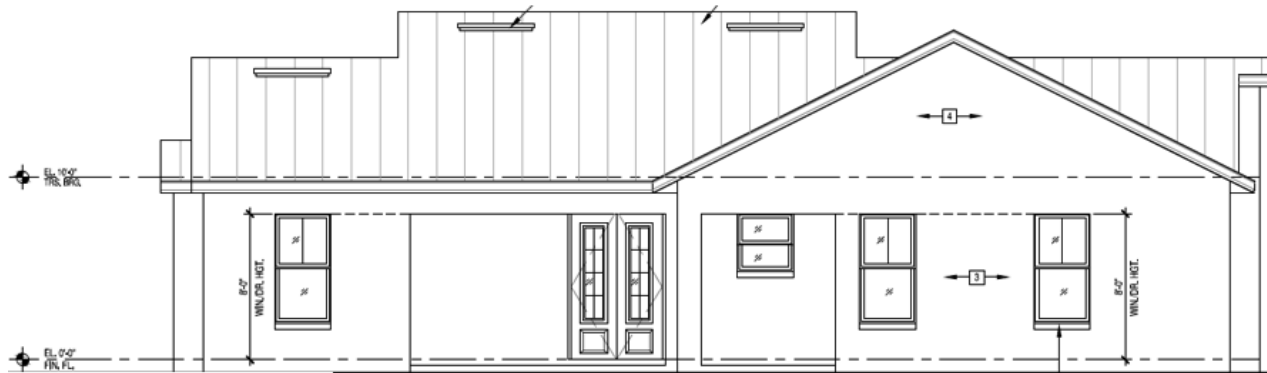
ADU ELEVATIONS



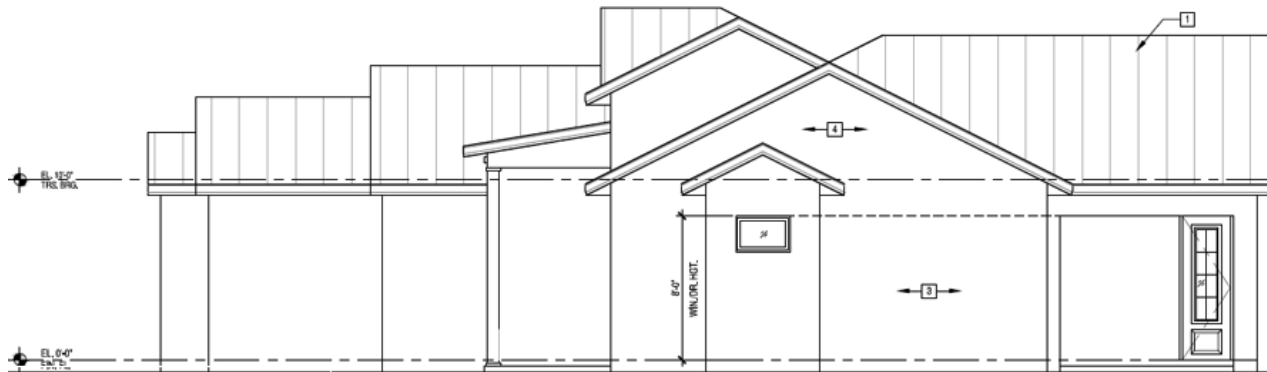
Front Elevation – South



Left Elevation – West



Rear Elevation – North

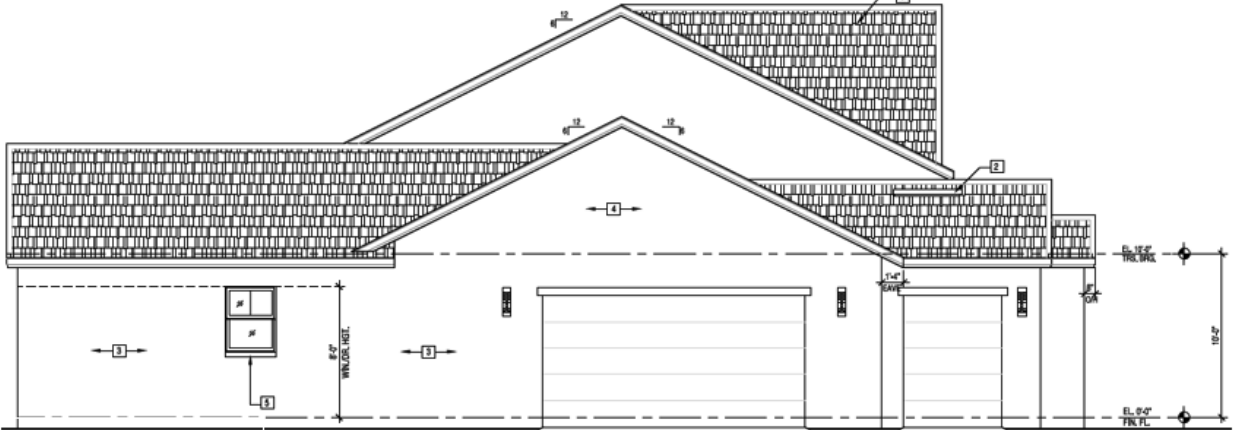


Right Elevation – East

PRIMARY RESIDENCE ELEVATIONS



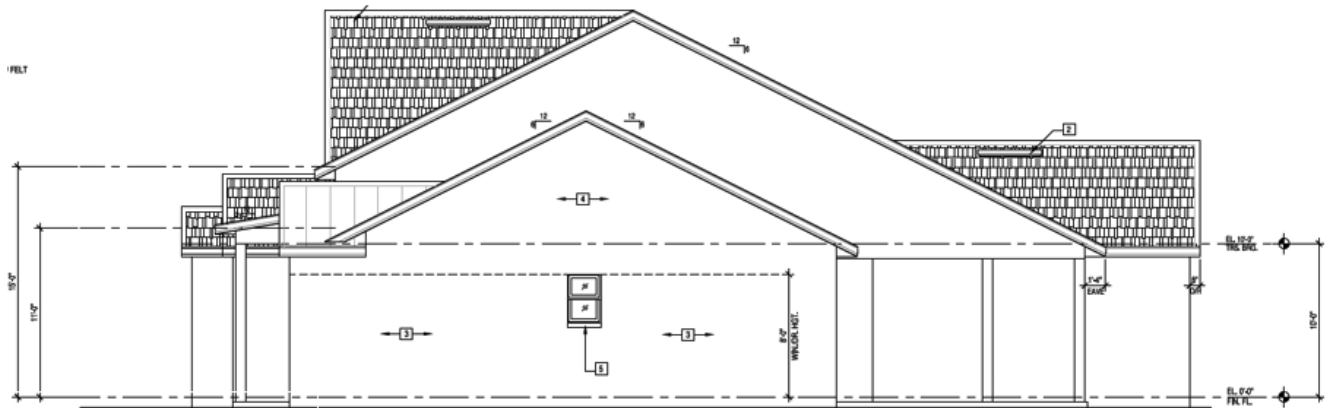
Front Elevation – South



Left Elevation – West



Rear Elevation – North



Right Elevation – East

SITE PHOTOS



Facing north from Quinella St. towards front of subject property



Facing northeast towards partially constructed primary residence

SITE PHOTOS



Rear yard, facing south towards proposed ADU location



Rear yard, facing north towards waterway easement

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#3**

Case #: **VA-23-04-009**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): ADAM KANE, ALLIE KANE

OWNER(s): ADAM KANE, ALLIE KANE

REQUEST: Variances in the R-1A zoning district as follows:

1) To allow an existing east side setback of 6 ft. in lieu of 7.5 ft.

2) To allow an addition with an east side setback of 6 ft. in lieu of 7.5 ft.

PROPERTY LOCATION: 2118 Miscindy Pl., Orlando, FL 32806, south side of Miscindy Pl., west of S. Bumby Ave., north of Pershing Ave., east of S. Orange Ave.

PARCEL ID: 07-23-30-6849-00-120

LOT SIZE: +/- 0.22 acres (9,929 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 125

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Roberta Walton Johnson, Second by John Drago; unanimous; 6 in favor: Roberta Walton Johnson, Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Charles Hawkins, II; 0 opposed; 1 absent: Juan Velez):

1. Development shall be in accordance with the site plan and elevations received February 15, 2023, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that four (4) comments were received in support of the request, and no comments were received in opposition.

The applicants agreed with the staff presentation and had nothing further to add.

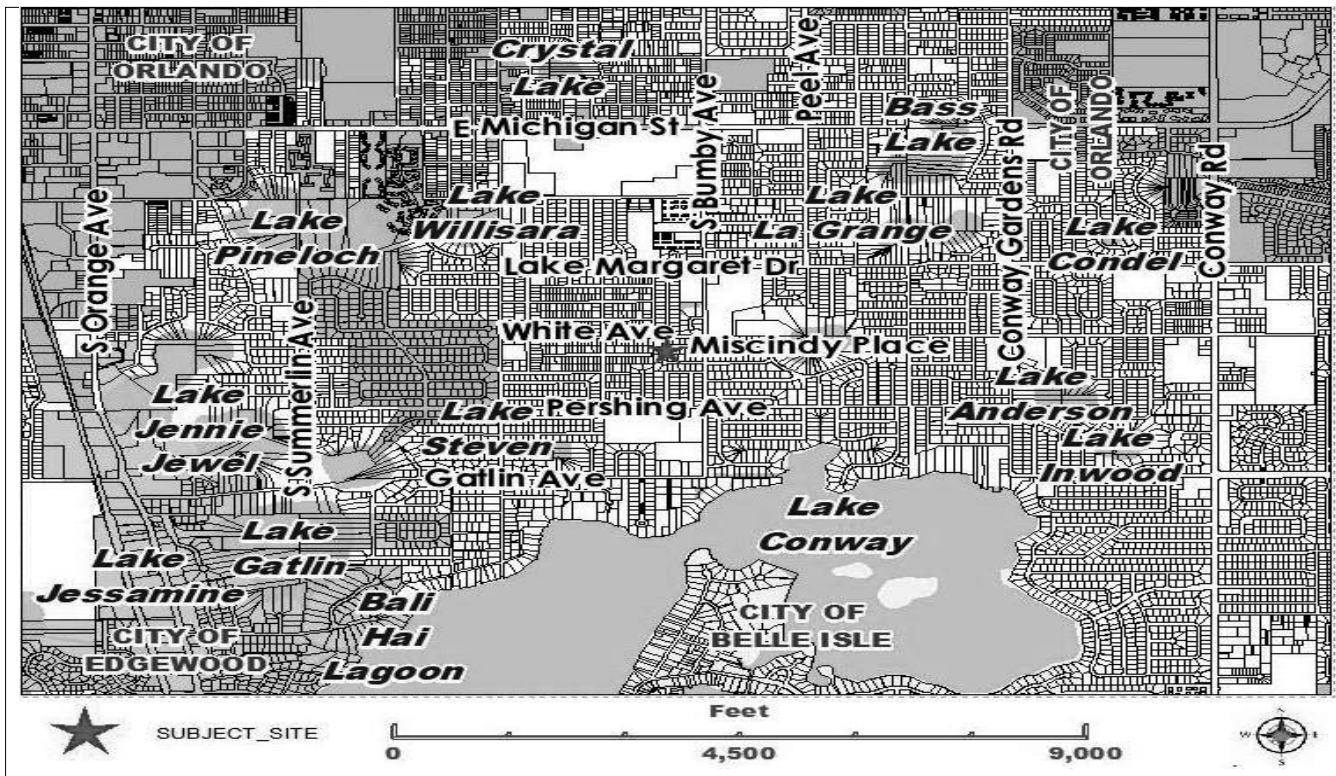
There was no one in attendance to speak in favor or in opposition to the request.

The BZA unanimously recommended approval of the Variances by a 6-0 vote, with one absent, subject to the three (3) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The area around the subject site consists of single-family homes. The subject property is a +/- 0.22 acre lot, platted in 1963 as Lot 12 of the Persian Wood Estates plat, and is a conforming lot of record. The property is developed with a 1-story, 2,442 gross sq. ft. single-family home constructed in 1964. There is a 10 ft. drainage and utility easement along the south property line but it is not affected by the Variances requested. The property was acquired by the current owners in 2013.

The proposal is for construction of an 165.1 sq. ft. addition to the east side of the existing residence, which will extend an existing 164.2 sq. ft. Florida room as indicated on the existing floor plan, totaling 329.4 sq. ft. The new living area will contain a playroom and office. The east side of the existing residence contains a side setback of 6 ft. in lieu of 7.5 ft., requiring Variance #1 in order to recognize the existing conditions. The proposed addition will continue the east side setback of 6 ft. in lieu of 7.5 ft., requiring Variance #2, aligning with the adjacent building facade.

After the improvement, the home will contain a total of 2,603 sq. ft. Based on staff analysis, the existing footprint in relation to the east property line renders any addition or improvements difficult without the need for the requests. There are homes in the surrounding area that appear to have existing structures and improvements with similar setbacks, which are visible via aerial photography. Furthermore, the addition will not be significantly visible from any of the surrounding properties due to the 6 ft. fence surrounding the property.

As of the date of this report, four comments have been received in favor of this request and no comments have been received in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	7.7 ft. (addition)
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	9,929 sq. ft.

Building Setbacks

	Code Requirement	Proposed
Front:	25 ft.	25.7 ft. (North)
Rear:	30 ft.	44.5 ft. (South)
Side:	7.5 ft.	6 ft. (East – Variances #1, #2) 9 ft. (West)

VARIANCE CRITERIA

Special Conditions and Circumstances

Pertaining to Variance #1, the location of the existing residence with a 6 ft. setback from the east side property line as constructed is considered a special condition and circumstance. Further, pertaining to Variance #2, the special conditions and circumstances particular to this property are related to the location of the existing home with a 6 ft. setback from the east side property line.

Not Self-Created

The need for the Variances are not self-created, as the owners acquired the property in 2013, and are not responsible for the placement of the existing Florida room. Further, the addition will have the same side yard setback as the adjacent existing building setback.

No Special Privilege Conferred

Due to the existing non-conforming setback, granting the requested Variances will not confer any special privilege conferred to others under the same circumstances.

Deprivation of Rights

Without approval of the requested Variances, the owners will not be able to construct the proposed addition with useable living area.

Minimum Possible Variance

Due to the setbacks and the location of improvements, the requested Variances are the minimum possible.

Purpose and Intent

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The house will remain as constructed in its current location and the proposed the addition will be behind an existing 6 ft. high fence that will block adjacent views.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received February 15, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
- C: Adam Kane and Allie Kane
2118 Miscindy Place
Orlando, FL 32806

COVER LETTER

Adam & Allie Kane
2118 Miscindy Place
Orlando, FL 32806
689-254-2250
Kane5915@gmail.com

February 7th, 2023

Orange County Zoning Board
201 South Rosalind Avenue, 1st Floor
Orlando, Florida 32806

We appreciate the opportunity to submit a request for property variance. In this letter, we will detail the reason for the request as well as answer questions required by the county.

Adam Kane had the Pre-Application Meeting with Ted Kozak on January 6th, 2023.

We are seeking a variance request regarding minimum distance to property line on the east side of our property. We are planning on closing in and permitting a formerly screened in patio, as well as a 137 sq ft. expansion to the south of the patio. The room will be used as home office and playroom for our family. Current zoning requirement for R-1A is 7.5 feet from property line to structure. The current screened in patio is at 6 feet from property line. The variance request is to continue 6 feet from property line that is currently there for the patio room for the addition. As part of this construction, we will be totally reconstructing the patio room with concrete block wall.

The 1.5 feet exemption (from 7.5 feet in code to requested 6 feet) request is needed for proper width of room for use. The patio room we have now is perfect width and the continuation of that room would be in harmony of the rest of the house and not be injurious to the neighborhood or detrimental to the public.

We have not hired a General Contractor yet, but once variance is approved our architect firm can finalize detailed construction documents, which will allow us to solicit bids from general contractors, and they will file for permits for the construction. As soon as variance is approved, we will begin on this project with hopes of completing construction as quickly as possible.

We've also attached multiple letters of support from our neighbors in regards to our project.

COVER LETTER

Variance Request Criteria on application:

Special Conditions and Circumstances:

The special condition and circumstances particular to this property is the existing home was built in 1964 and the existing screen patio was built in 1996 by the previous owner, with a distance of 6 feet from the property line.

Not Self-Created:

The need for the variance is not self-created. The existing patio was there before the current owners and has been in place since 1996, the current owners are just looking to keep existing distance to the property line for new expansion.

No Special Privilege:

Due to the layout of the home and property, a variance would be required for reasonable extension of existing house. Granting the variance will not confer any special privilege conferred to others.

Deprivation of Rights:

Denial of this variance would deprive owners of the right to utilize and enjoy improvements to the property.

Minimum Possible Variance:

The request is the minimum possible size for the design of the addition and is using the footprint of the existing room.

Purpose and Intent:

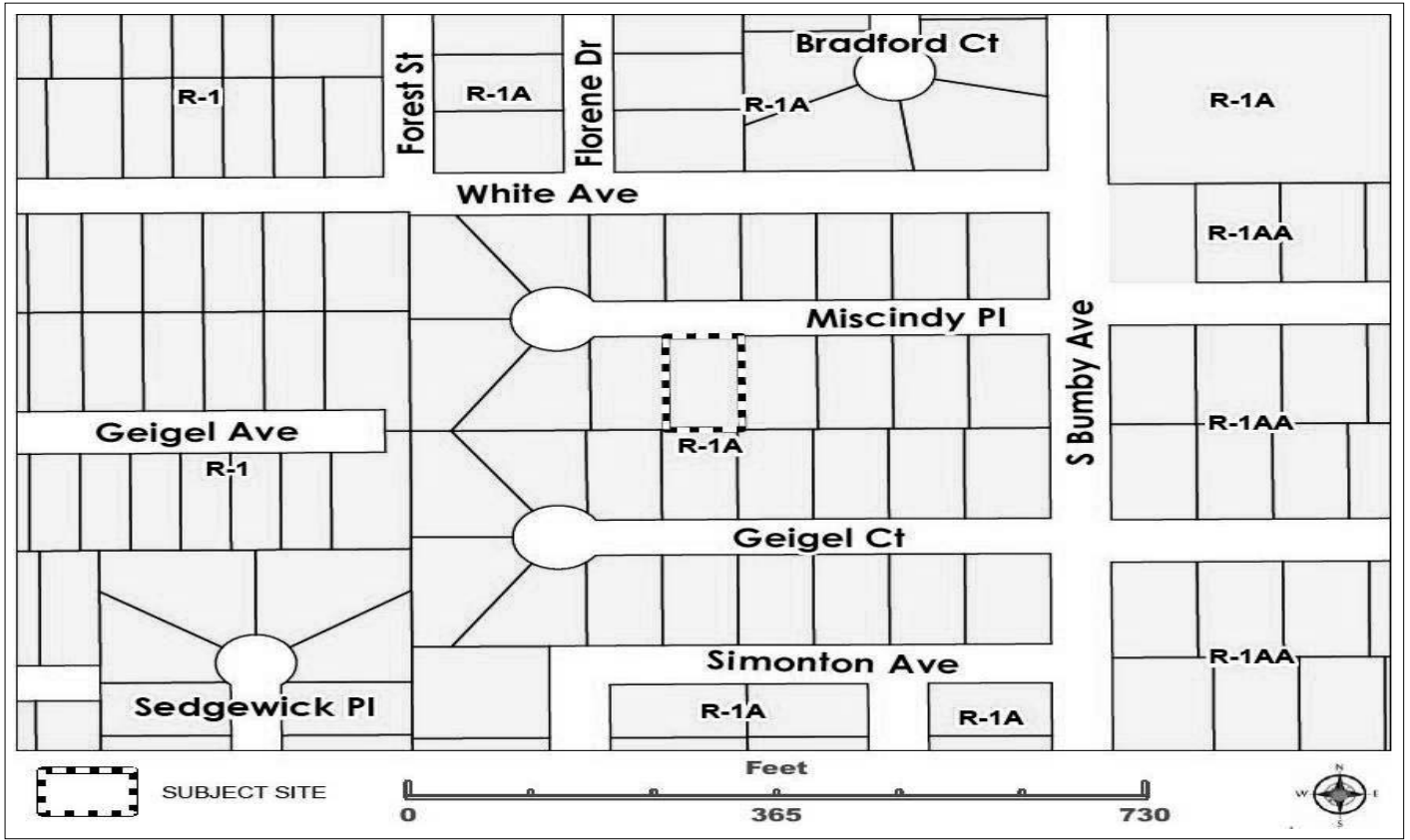
Approval of the variance would be in harmony with the intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on the surrounding properties. This proposed request would not be detrimental to the neighborhood since the design of the addition is using the footprint of the existing room. The architectural design would be compatible with other residences in the surrounding area.

We thank the Orange County Zoning Board for their consideration of our request and look forward to approval of our variance so we can quickly begin our expansion and renovation construction.

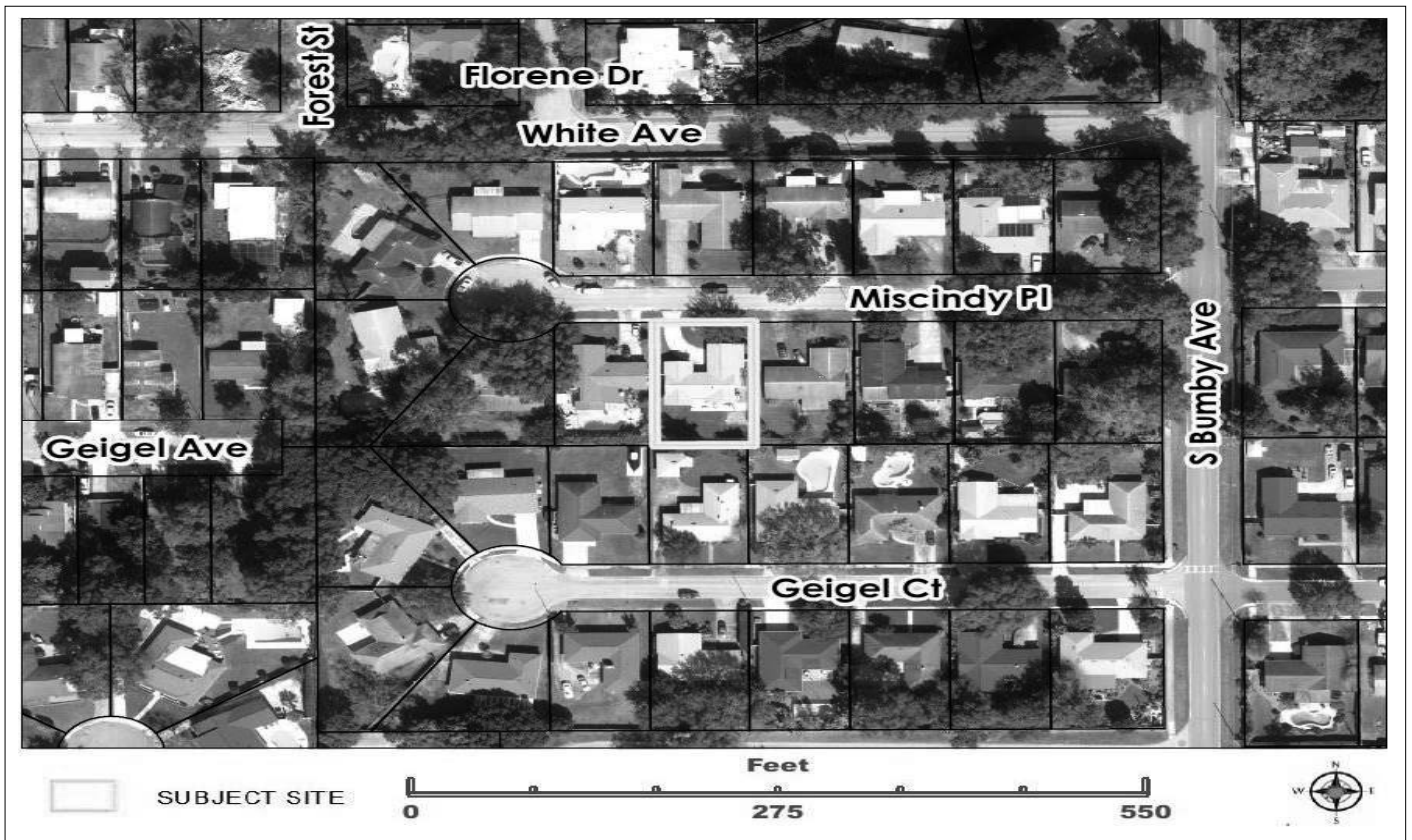
Sincerely,

Adam & Allie Kane
2118 Miscindy Place
Orlando, FL. 32806

ZONING MAP

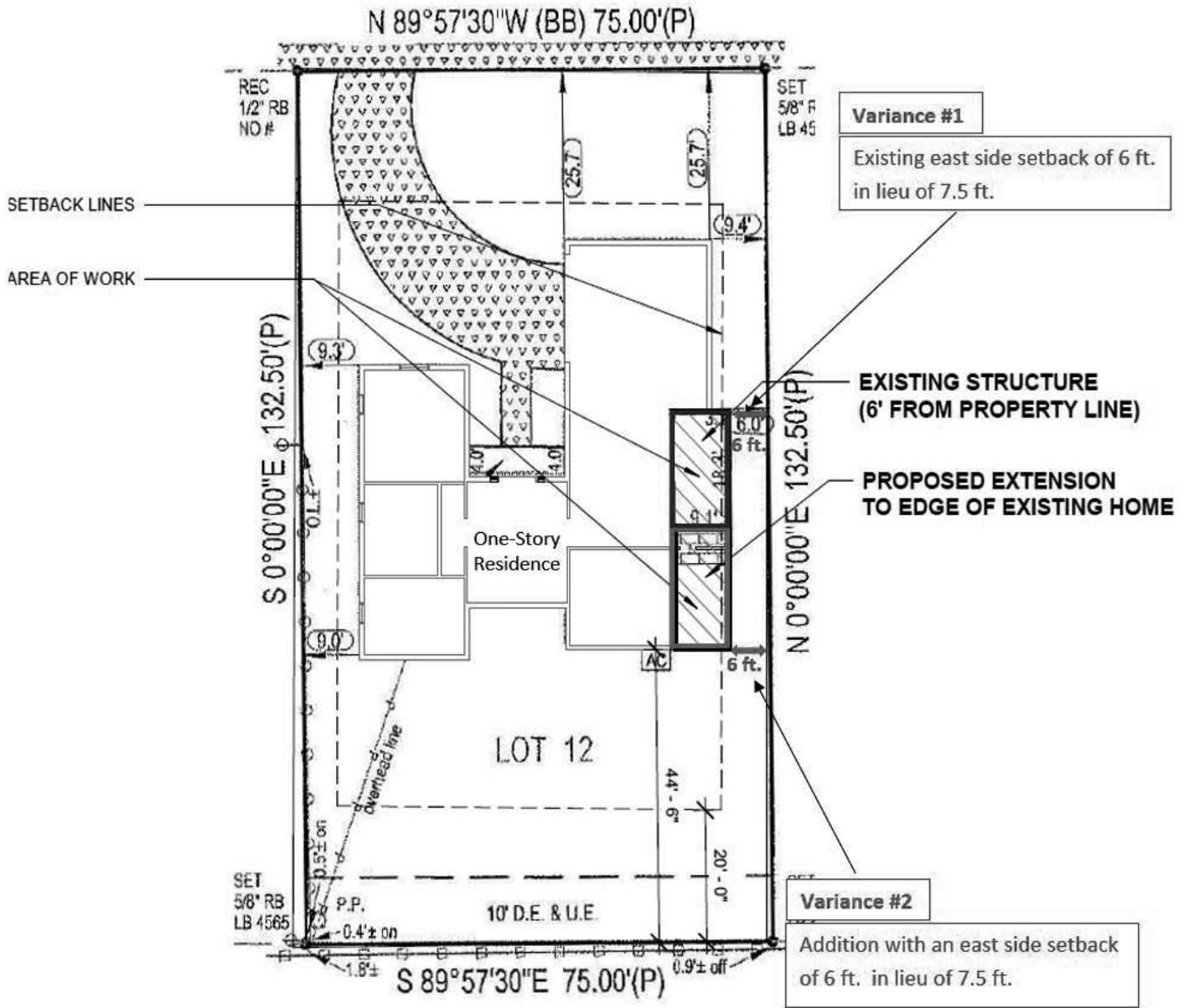


AERIAL MAP

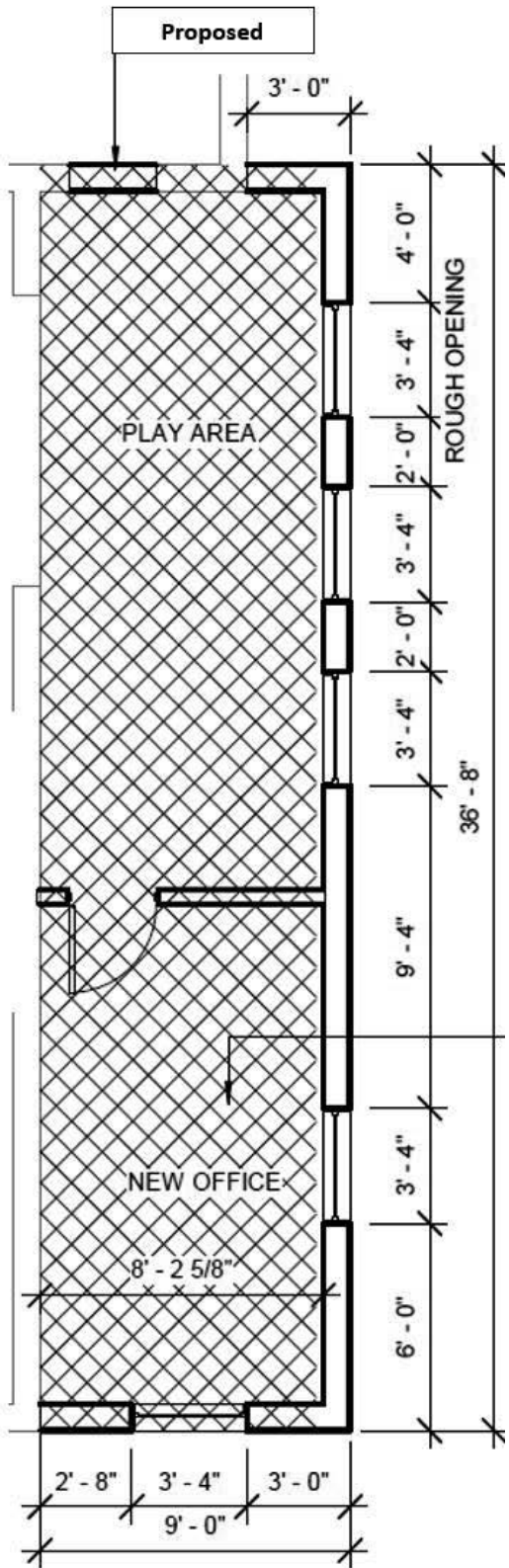
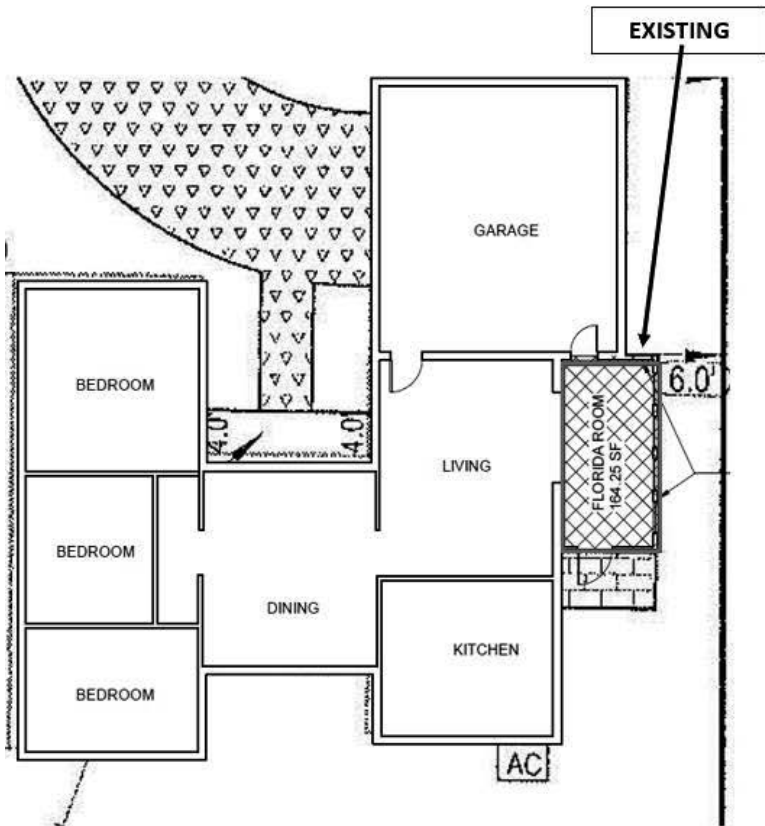


SITE PLAN

C/L MISCINDY PLACE



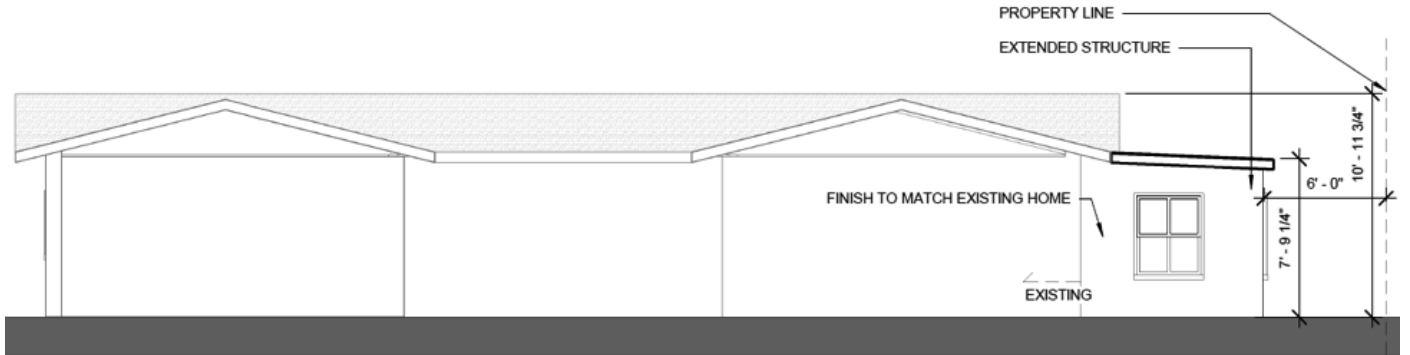
FLOOR PLAN



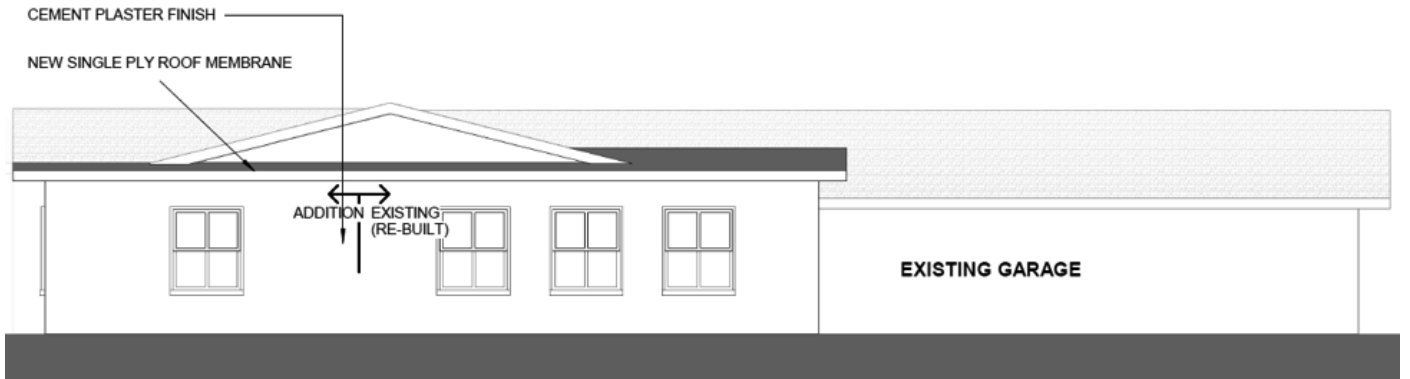
ELEVATIONS



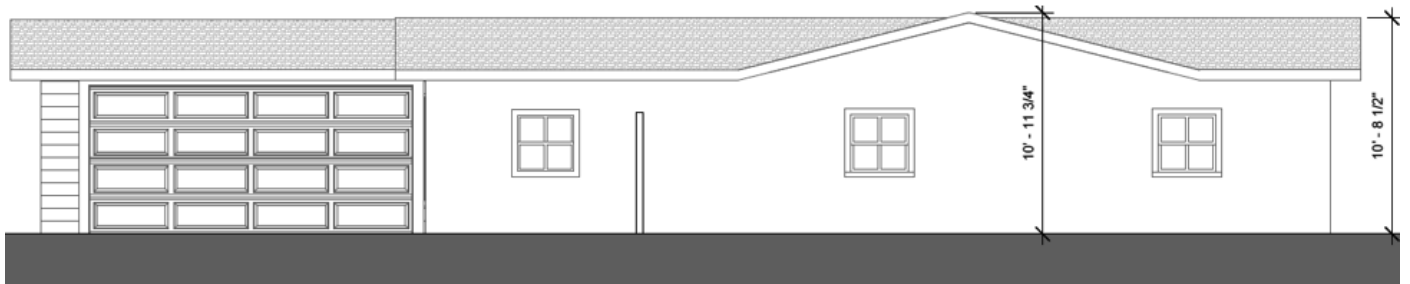
Front Elevation – North



Rear Elevation – South



Right Elevation – East



Left Elevation – West

SITE PHOTOS



Facing south from Miscindy Pl. towards front of subject property



Facing south towards existing residence with 6 ft. setback

SITE PHOTOS



Rear yard, facing north towards proposed addition location to line-up with existing residence



Rear yard, facing northwest towards rear of residence

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#5**

Case #: **VA-23-03-002**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JADE MALEK

OWNER(s): JADE MALEK

REQUEST: Variances in the R-1A zoning district as follows:

1) To allow a deck with an east side setback of zero in lieu of 7.5 ft.

2) To allow a carport with a rear setback of 21.6 ft. in lieu of 30 ft.

PROPERTY LOCATION: 1898 Killarney Drive, Winter Park, FL 32789, southeast corner of Killarney Dr. and Ohio St., on the south side of Lake Killarney, north of W. Fairbanks Ave.

PARCEL ID: 12-22-29-4076-01-130

LOT SIZE: +/- 0.16 acres (7,138 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 91

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Joel Morales, Second by John Drago; unanimous; 6 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Roberta Walton Johnson, Charles Hawkins, II; 0 opposed; 1 absent: Juan Velez):

1. Development shall be in accordance with the site plan and elevations received January 11, 2023, as modified to meet all setbacks, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the covered carport shall be obtained or it shall be removed prior to obtaining a permit for the deck.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation of approval of Variance #1 and denial of Variance #2. Staff noted that four (4) comments were received in support of Variance #1 and no comments were received in support of Variance #2, and one (1) comment was received in opposition of Variance #1 and no comment was received in opposition of Variance #2.

The applicant discussed the staff recommendation of denial for Variance #2 noting that the carport has been in existence for 20 years. They also stated that there are several other carports in the surrounding area which are similar to theirs.

There was no one in attendance to speak in favor or in opposition to the request.

The BZA discussed the carport, determining the carport space has been in existence for a considerable amount of time, that it would not be a detrimental intrusion to the neighborhood, and unanimously recommended approval of the Variances by a 6-0 vote, with one absent, subject to the four (4) conditions in the staff report.

STAFF RECOMMENDATIONS

Approval of Variance #1, subject to the conditions in this report, and denial of Variance #2. However, if the BZA should find that the applicant has satisfied the criteria for the granting of both Variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Lake Killarney, Boat Dock	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The area is comprised of single-family homes, many of which are lakefront. The subject property is a 0.16 acre lot, platted in 1925 as Lot 13 of the Karolina on Killarney Plat, and is a non-conforming lot of record. The property is located at the southeast corner of Killarney Drive and Ohio Street and is developed with a 1-story, 2,381 gross sq. ft. single-family home constructed in 1985. There is also an attached carport located at the south rear of the house, which was installed without permits in 2018, based on aerial photography. Directly north of the subject site is Lake Killarney and the applicant's boat dock. The frontage is considered Killarney Drive since it is the narrowest portion of the lot abutting a public street and the side street is Ohio Street. The property was purchased by the current owner in 1987.

In October 1983, a Variance (Case #22) was approved to erect a single-family residence on a sub-standard sized lot, which is the current residence.

The proposal is to demolish the existing 317 sq. ft., 1.75 ft. high attached wooden deck located in the front of the house and rebuild a new wooden deck using the same footprint as existing. According to the survey provided by the applicant, it appears the existing deck has been in its current location since at least 1990. The proposed deck will have a 0 ft. side setback in lieu of 7.5 ft., requiring a Variance since the attached raised deck requires the same setback as the principal structure. Staff recommends approval of Variance #1 since the proposed deck is screened from the adjacent property by a concrete block wall that also runs along the east side of the property.

Also requested is to allow a 20 ft. by 8 ft., 10 ft. high attached carport to remain, located 21.3 ft. from the south rear property line in lieu of 30 ft., requiring Variance #2. According to the owner, the current location of the carport was originally constructed as a trellis; however, it was later converted into a carport. Although many neighboring houses include carports in the surrounding area, they appear to meet setbacks. Therefore, staff recommends denial of Variance #2. The remainder of site improvements meet setback requirements for the R-1A district, with the exception of the existing south rear setback of 29.6 ft. in lieu of 30 ft. and the existing east side street setback of 14.9 ft. in lieu of 15 ft. that have received administrative approval. Per Sec.38-1508 (a) (b) of the Orange County Code, "the zoning manager shall have the authority to grant administrative waivers from the performance standards set forth in section 38-1501 ..., provided that no such administrative waiver shall exceed three (3) percent of the applicable requirement for the side yards and six (6) percent for the front or rear yards for existing improvements".

As of the date of this report regarding Variance #1, four comments have been received in favor of this request and one comment has been received in opposition to this request. No comments have been received in favor or opposition in regard to Variance #2 request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	10 ft. (carport)
Min. Lot Width:	75 ft.	50 ft. (Prior Variance)
Min. Avg. Lot Size:	7,500 sq. ft.	7,138 sq. ft. (Prior Variance)

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front (Killarney Dr.):	25 ft. residence 10 ft. deck	25 ft. (North) 15 ft. (North)
Rear:	30 ft.	21.6 ft. carport (South – Variance #2) 29.6 ft. residence (South)
Side:	7.5 ft.	0 ft. deck (East – Variance #1) 15 ft. carport
Side Street (Ohio St.):	15 ft.	14.9 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

Variance #1: The special condition and circumstance particular to the subject property is the age of the existing deck, in the same location since prior to 1990. The owner is proposing to replace the dilapidated deck using the existing footprint and matching the existing grade.

Variance #2: There are no special conditions or circumstances particular to the subject property as the owner may continue to use the existing garage for parking, which will eliminate the need for the Variance.

Not Self-Created

Variance #1: The need for the requested Variance is not self-created as it allows for the applicant to replace an existing wooden deck using the same footprint, which has been in the same location for 32 years.

Variance #2: The request for the Variance is self-created and a self-imposed hardship as it results from the construction of the carport without a permit.

No Special Privilege Conferred

Variance #1: Granting the requested Variance will not confer any special privilege conferred to others under the same circumstances since the proposal is to replace an existing deck on the same footprint which was installed over 32 years ago.

Variance #2: Granting the Variance as requested would confer special privilege, as several other properties in the area with carports appear to meet required setbacks.

Deprivation of Rights

Variance #1: Denial of this Variance would deprive the owner the right to replace an existing deck that has been in the same configuration and location for 32 years.

Variance #2: There is no deprivation of rights as the owner can continue to use the existing garage without the need for a Variance.

Minimum Possible Variance

Variance #1: Given the natural constraints and existing improvements, the request is the minimum possible.

Variance #2: The request is not the minimum possible as proposed as there is an option to eliminate it by continuing to use the existing garage for parking.

Purpose and Intent

Variance #1: Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties. The proposed deck replacement will not impact adjacent properties, and it will be screened by the concrete block wall located on the east property line.

Variance #2: Approval of the request will not be in harmony with the purpose and intent of the Code, as the request will be detrimental to the neighborhood as there are no similar setback requests for a rear setback and since the materials of the existing carport are not consistent and compatible with the existing residence.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received January 11, 2023, as modified to meet all setbacks, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the covered carport shall be obtained or it shall be removed prior to obtaining a permit for the deck.

C: Jade Malek
1898 Killarney Drive
Winter Park, FL 32789

COVER LETTER

1/11/2023

JADE MALEK
1898 Killarney Drive
Winter Park, FL 32789

Cell: 407-497-6950
E-Mail: jademalek@aol.com

Orange County Zoning Division
201 South Rosalind Ave
Orlando, FL 32801

Re: Variance for Permit B22023213

Greetings,

- I am enclosing:
- the variance application pages 1-13
 - the plot plan
 - neighborhood plat showing 2 houses with structures in setback
 - pictures showing front of house/deck and side of deck in set back
 - the plans for the replacement deck
 - letter/statement with 4 signatures

My front deck has been in existence since 1985. Since it is so old, it needs to be replaced.

In 1985, the front deck construction was approved by Orange County. Now that the setback policy has changed, I have been forced to seek a variance because a small portion of the deck is in the side setback.

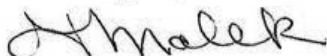
The side portion of the deck is necessary, because it provides reasonable and possible access to the side deck that runs along the east side of the house.

My front deck has never been injurious or detrimental to the neighborhood in its 38-year existence.

Thanking you in advance,

PLEASE ALLOW A 160 SQ FT ALUMINUM & VINYL
CARPORT WITH A REAR SETBACK OF 21.5 FT.

Best regards,



Jade Malek

THE DECK IS 316.2 SQ FT AND IS 1.75' IN HEIGHT. THIS MEETS THE FRONT SETBACK. IT DOES NOT MEET THE SIDE SETBACK AT 0.0 FT DUE TO IT BEING ATTACHED TO THE WALL. FRONT DIMENSIONS 8' X 32.2'
SIDE DIMENSIONS 5.83' X 10.0'

1. Special Conditions and Circumstances - Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.

1. The front deck and side deck have been in existence since 1985. The front deck connects to the side deck. The front deck steps provide access to the house and to the side deck. CARPORT WAS ORIGINALLY A WOOD TRELLIS AND CONVERTED TO ALUMINUM

2. Not Self-Created - The special conditions and circumstances do not result from the actions of the applicant. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.

2. The deck was built in 1985. At that time, Orange County Zoning allowed this deck to be built in the side setback. Since then, Orange County Zoning has changed its policy toward setbacks. This new policy has created this hardship. ORIGINALLY THERE WAS A WOOD TRELLIS THAT WAS CONVERTED TO ALUMINUM

3. No Special Privilege Conferred - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.

3. There are other structures in this zoning district that are built into the setbacks. 1822 Killarney Dr has a block wall and a pool in the front setback. 301 Clay St has a 6ft block wall enclosing a concrete patio in the side setback. Aerial views of these properties from Orange County Property Appraiser site are attached. THERE ARE SEVERAL ALUMINUM CARPORTS IN NEIGHBORHOOD

4. Deprivation of Rights - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.

4. As stated in paragraph #3, there are two other properties that enjoy the right to have structures built in their setbacks. The hardship of not replacing my existing deck would deny my access to my side deck.

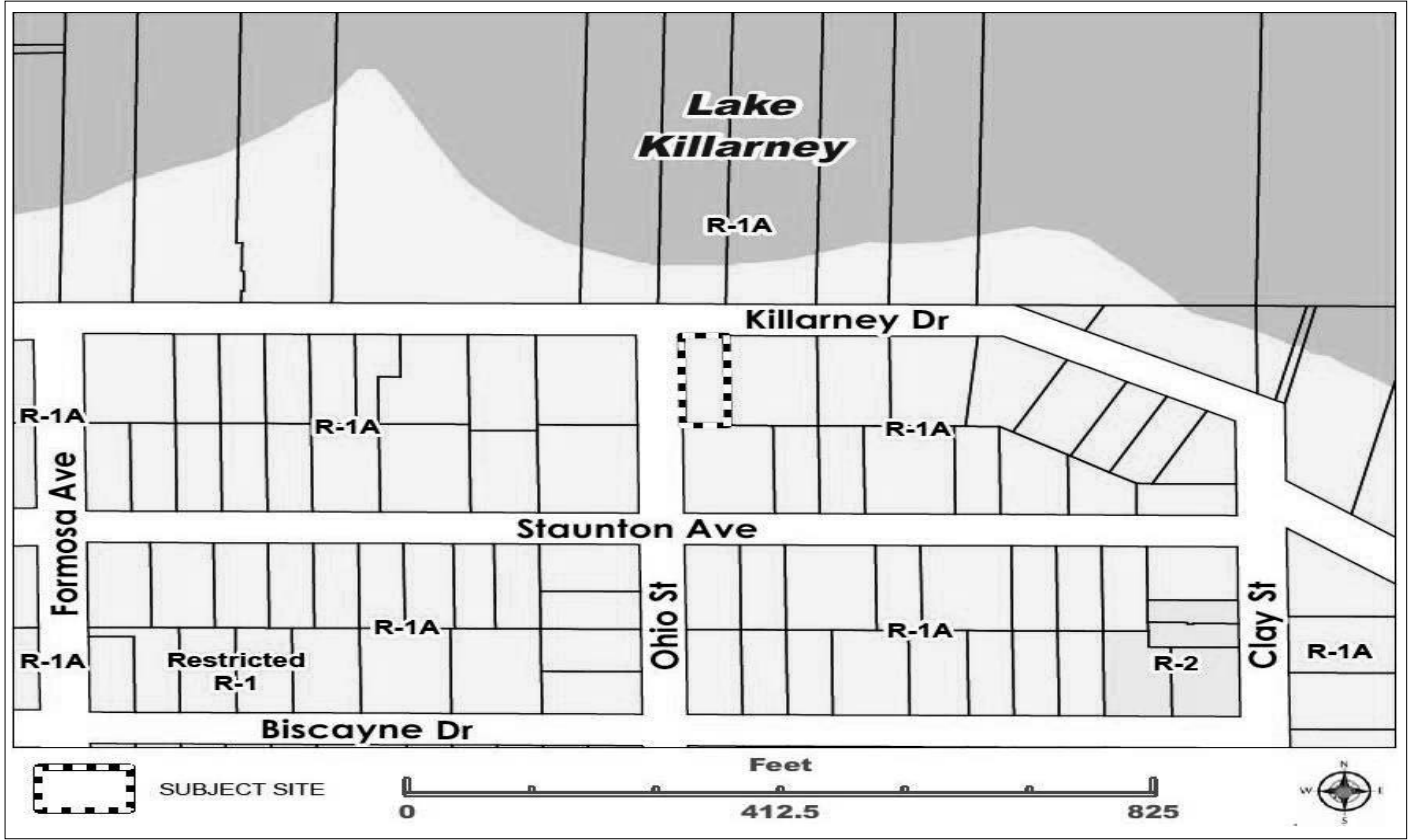
5. Minimum Possible Variance - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.

5. The reasonable use of my front deck is to provide access to my side deck. CARPORT WAS THE SAME SIZE & CONFIGURATION BUT ORIGINALLY A WOOD TRELLIS WITH SAME SETBACK

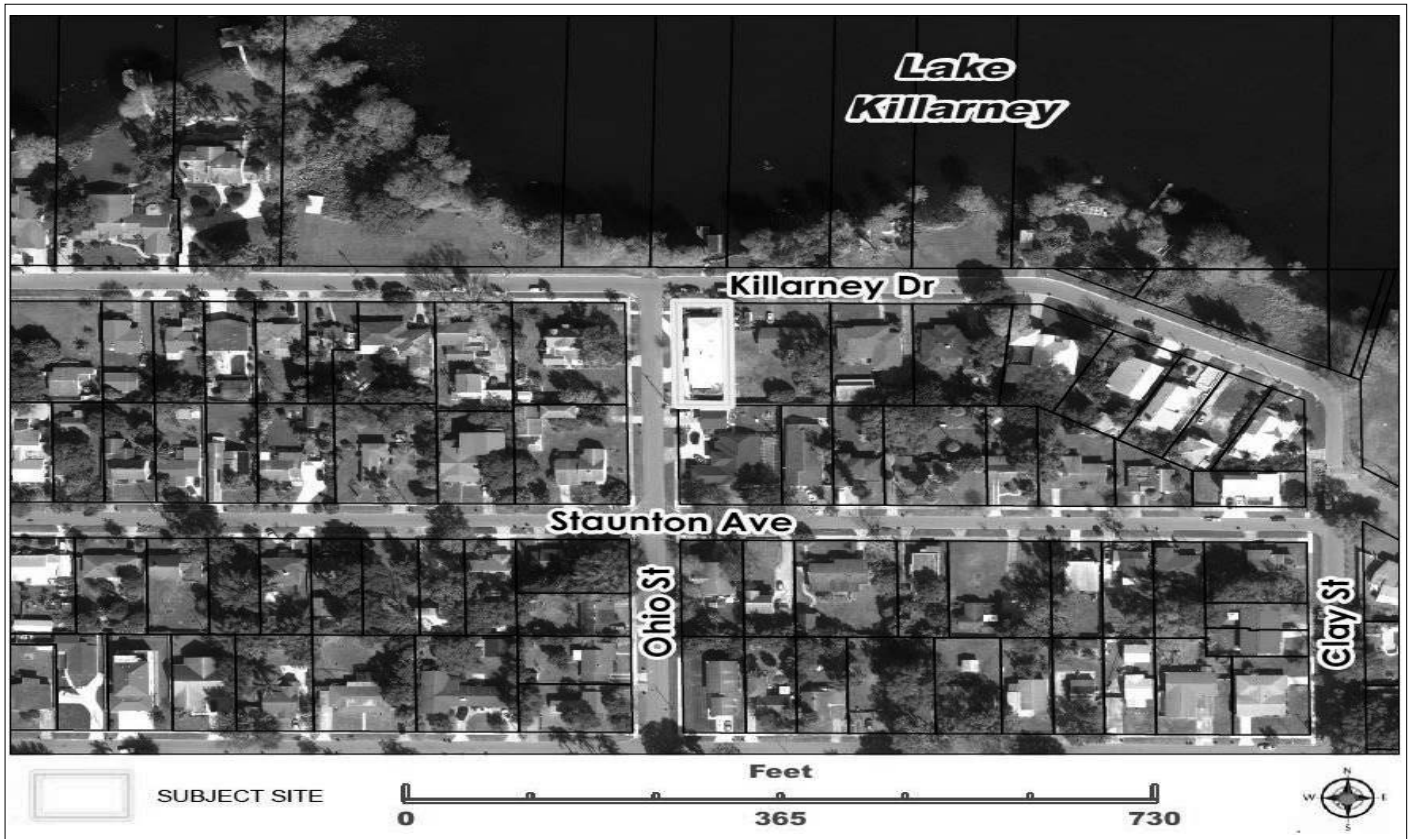
6. Purpose and Intent - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

6. The purpose and intent of my front deck is to access my side deck. My deck has been in existence since 1985 and has never been injurious or otherwise detrimental to the neighborhood. ALSO CARPORT HAS 13 BEN THERE THE SAME SIZE AS THE WOOD TRELLIS AND THEN CONVERTED TO ALUMINUM. CARPORT HAS NEVER BEEN INJURIOUS OR DETRIMENTAL TO NEIGHBORHOOD

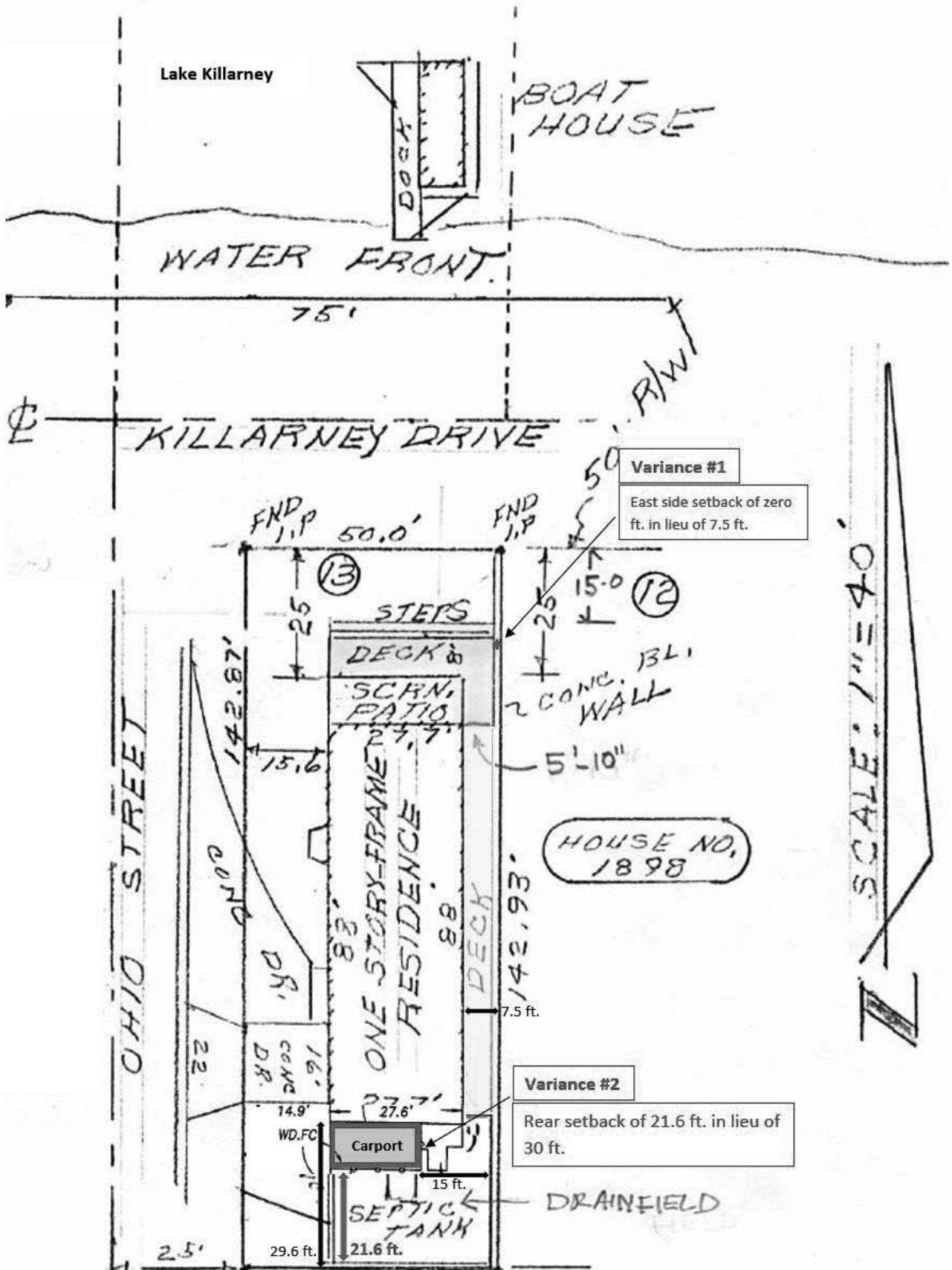
ZONING MAP



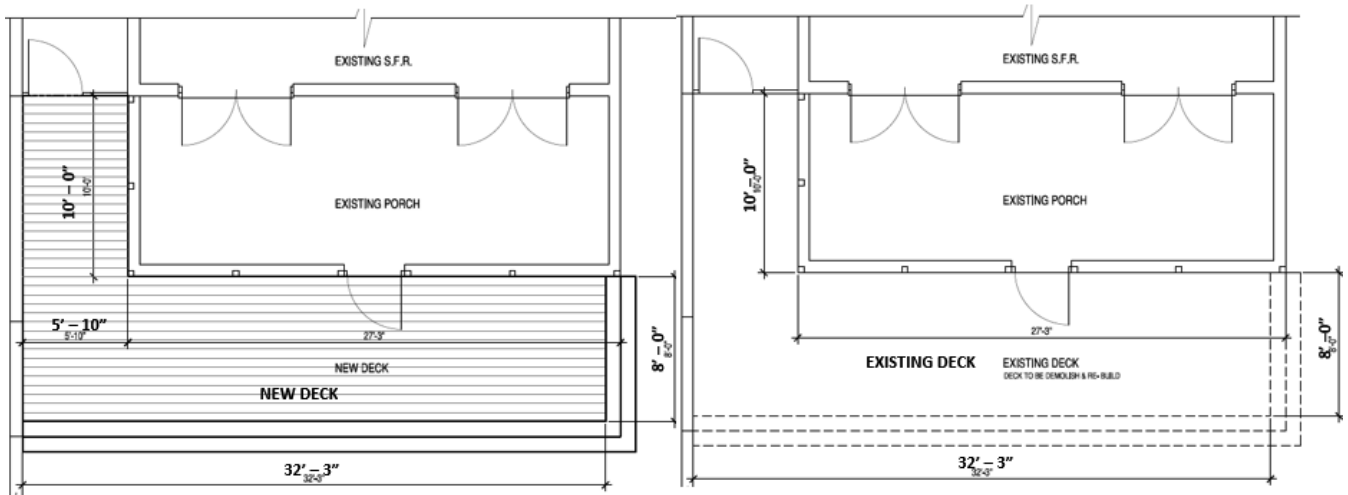
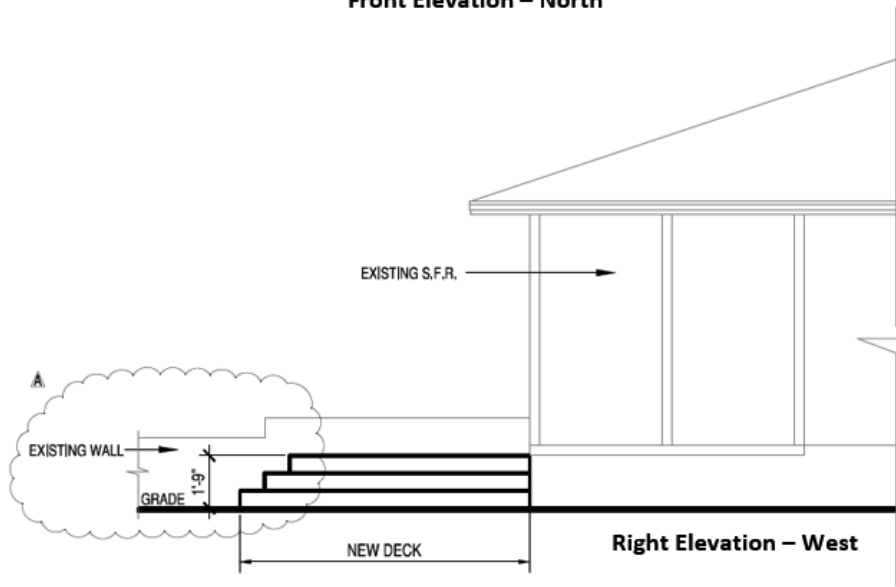
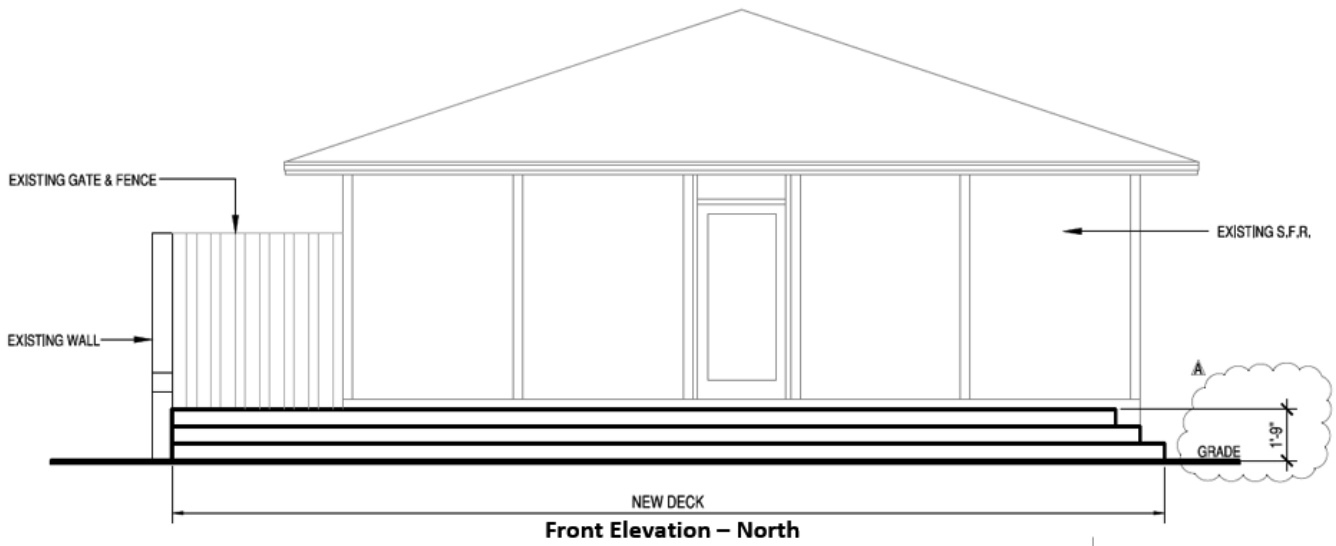
AERIAL MAP



SITE PLAN



PROPOSED DECK PLANS



SITE PHOTOS



Facing south from boat dock towards corner of Killarney Dr. and Ohio St. and front of property



Facing north from Ohio St. towards side of property and carport

SITE PHOTOS



Front yard, facing southwest towards proposed deck to be replaced



Front yard, facing south towards Variance #1

SITE PHOTOS



Rear yard, facing north towards Variance #1



Facing north from existing deck towards boat dock and Lake Killarney

SITE PHOTOS



Facing east from Ohio St. towards garage and Variance #2



Facing east from Ohio St. towards front of carport

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#5**

Case #: **SE-23-02-152**

Case Planner: **Jenale Garnett (407) 836-5955**

Jenale.Garnett@ocfl.net

GENERAL INFORMATION

APPLICANT(s): JUAN SANTA FOR COMMERCIAL KENNEL

OWNER(s): JUAN SANTA

REQUEST: Special Exception and Variance in the A-2 zoning district as follows:

1) Special Exception to allow a commercial kennel.

2) Variance to allow 9 parking spaces in lieu of 19 spaces.

PROPERTY LOCATION: 15077 Lake Pickett Road, Orlando, FL 32820, north side of Lake Pickett Rd., northwest of S. Tanner Rd., west of Chuluota Rd.

PARCEL ID: 07-22-32-0000-00-009

LOT SIZE: +/- 4 acres

NOTICE AREA: 700 ft.

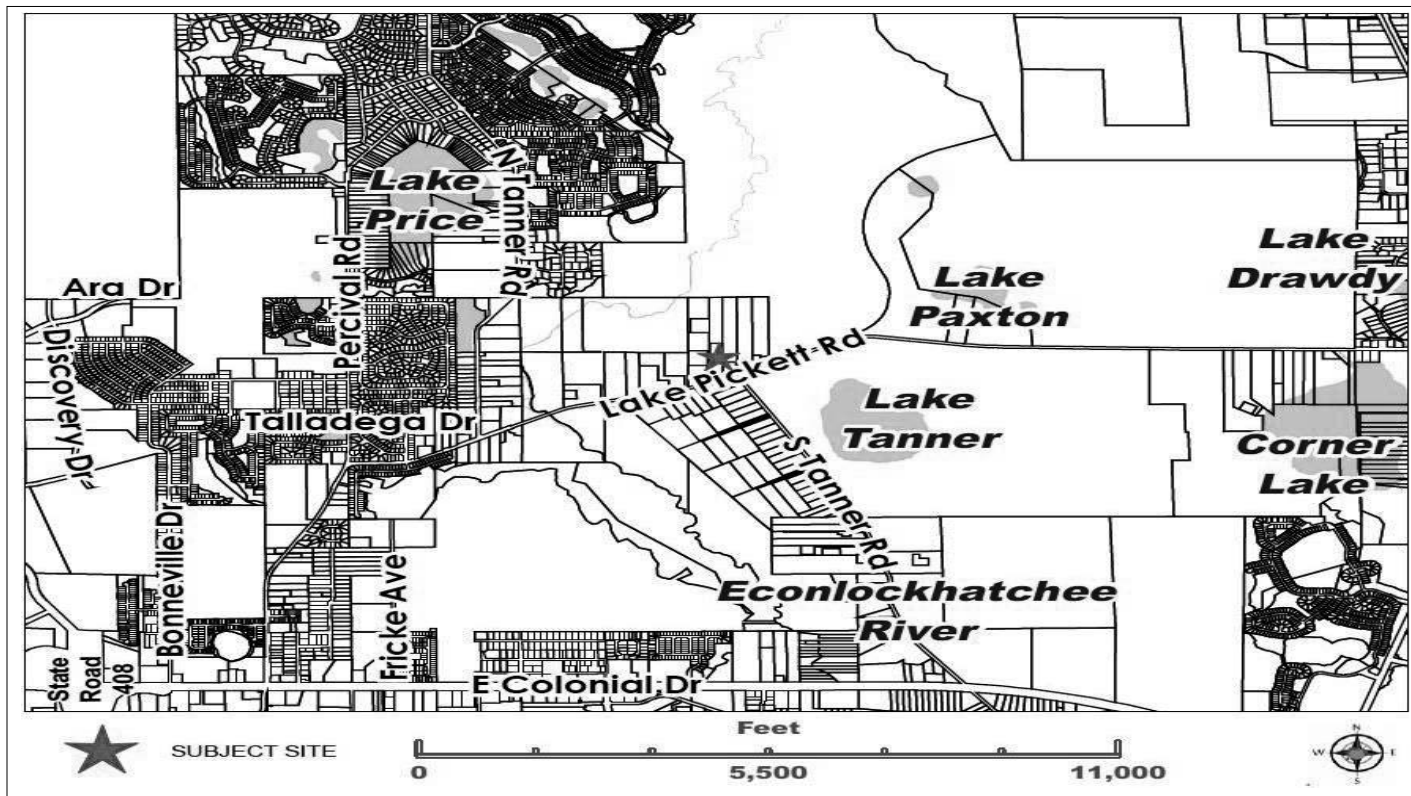
NUMBER OF NOTICES: 23

DECISION: **CONTINUED TO THE MAY 4, 2023, BZA HEARING** (Motion by John Drago, Second by Thomas Moses; unanimous; 6 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Charles Hawkins, II, Roberta Walton Johnson; 0 opposed; 1 absent: Juan Velez).

STAFF RECOMMENDATIONS

Approval of the Special Exception, subject to the conditions in this report, and recommendation of approval for a lesser Variance of 12 parking spaces. However, if the BZA should find that the applicant has satisfied the criteria for the granting of the Special Exception and the Variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	A-2	A-2	A-2	A-2	A-2
Future Land Use	R	R	R	R	R
Current Use	Single-family residential	Single-family residential	Single-family residential	Agricultural grazing, Single-family residential	Agricultural grazing, Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the A-2 Farmland Rural district, which allows agricultural uses, mobile homes, and single-family homes on larger lots. Certain uses, such as commercial kennels, are permitted through the Special Exception process. The future land use is Rural/Agricultural (R), which is consistent with the A-2 zoning district.

The area around the subject site consists of single-family homes and agricultural uses, such as grazing pastures. The subject property is a +/- 4 acre lot that was created by a lot split in October 2003 (LS #2003-180). It is developed with a 1-story 4,079 gross sq. ft. single-family residence constructed in 1968, a pool that appears via aerial imagery to have been installed in 1987, and an 864 sq. ft. detached 2-car garage (B04004819) built in 2004. The site also contains existing unpermitted improvements such as a 448 sq ft., 14 ft. high shed (Shed #1) that appears via aerial imagery in 1978, and a 98 sq. ft. shed (Shed #2) that appears via aerial imagery in 2000. The current owner purchased the property in October 2022.

Previous approvals include a Special Exception (Case #24) approved in January 2000 for a Family Lot Provision. A Family Lot Provision is the primary residence of an immediate family member of the fee simple parcel owner, which immediate family member must be living at the time of the building permit for such dwelling unit(s) is issued. The parcel was legally created according to zoning division records as of May 21, 1991, and the applicant was the official owner of record as of the date of the adoption of the County's comprehensive plan in July, 1991. The provision is no longer in effect for the property since it has since changed ownership after 1991.

Proposed is the construction of a 4,800 sq. ft., 24.5 ft. high metal building which will be used for a commercial kennel located at the rear of the property. It will contain foam insulation for soundproofing, an adjacent 975 sq. ft. outdoor dog run and the use of Shed #1 to be used in conjunction with the operation. No changes to the existing single-family residence are proposed. The operation will be limited to a maximum of 100 dogs, with 4 employees at a maximum of 1 employee per shift. The kennel building will consist of a main kennel room with 44 dog runs and indoor playground, nursery room with 10 dog runs, puppy room with 5 dog runs, a grooming room, and a reception area and storage. The outdoor dog run will allow a maximum of 25 dogs at any given time. A maximum of 1 family will be allowed to visit the site at a time, by appointment only, and will rarely enter the proposed kennel. All proposed structures and existing buildings to remain will meet setback requirements for the A-2 district and the existing unpermitted Shed #2 will be removed prior to obtaining permits for site improvements.

Vehicular access to the site will be provided from Lake Pickett Rd. The proposed landscaping plan for the proposal includes the provision of 10 Live Oak trees abutting the east and west property lines, shrubs surrounding the proposed kennel and outdoor run, and a 7 ft. wide landscape strip proposed to serve as a buffer between the parking spaces and adjacent property located to the east. All existing trees on the site will also remain to serve as landscape screening, which will meet Landscape Code requirements.

Per Section 38-1476 of the Orange County Code, the parking requirement for the development is 1 space for each 300 sq. ft. of office, animal shelter and run area. With 5,775 sq. ft. of kennel building area, 19 parking spaces are required. Proposed for the commercial kennel operations is the provision of 9 parking spaces in a parking area adjacent to the existing single-family residence, in lieu of the 19 required parking spaces, requiring a Variance. Although the cover letter indicates a requested provision of 8 parking spaces, the applicant has since updated the request to provide 9 parking spaces. Staff recommends, the approval of a lesser Variance of 12 parking spaces in lieu of 19 spaces since the Orange County Transportation Division has reviewed the request and noted that 12 parking spaces would be sufficient to meet parking demand for the use with the provision of a parking ratio of 1 space for each 400 sq. ft. of total building area for this type of facility.

The Orange County Comprehensive Planning Division has no concerns regarding the request and stated that the FLU Policy 6.1.1, the Future Land Use correlation for the Rural Service Area (RSA) considers the A-2 zoning classification consistent with the Rural / Agricultural (R) Future Land Use designation.

The Orange County Environmental Protection has reviewed the request and stated that the kennel sound produced shall comply with the Orange County Code Chapter 15 Environmental Control, Article V Noise Pollution Control, Section 15-182, which pertains to maximum permissible sound levels. Additionally, the sound proofing measures implemented as described in the cover letter and the restrictions pertaining to the outdoor dog run will comply with the noise ordinance.

The proposed hours of operation are Monday through Saturday between 10:00 a.m. and 6:00 p.m. for general use and between 7:00 a.m. to 6:00 p.m., daily, for employee shifts. Further, dogs are required to be kept indoors between 9:00 p.m. and 8:00 a.m., daily.

As of the date of this report, one comment has been received in favor of this request and no comments have been received in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	24.5 ft. (kennel) 14 ft. (Shed #1)
Min. Lot Width:	100 ft.	214 ft.
Min. Lot Size:	1/2 acre	4 acres

Building Setbacks

	Code Requirement	Proposed
Front:	35 ft.	344 ft. (South – kennel)
Rear:	50 ft.	450.5 ft. (North – kennel) 672.8 ft. (North – Shed #1)
Side:	10 ft.	75.1 ft. (East – kennel) 131.4 ft. (East – Shed #1) 73.7 ft. (West – kennel) 33.6 ft. (West – Shed #1)

STAFF FINDINGS

SPECIAL EXCEPTION CRITERIA

Consistent with the Comprehensive Plan

The provision of a commercial kennel as conditioned through the Special Exception process is consistent with the Comprehensive Plan.

Similar and compatible with the surrounding area

The commercial kennel use is compatible with adjacent properties in the area, which include agriculture grazing pastures, since the operations are located over 300 ft. from the nearest residence. Further, the restriction of a maximum of 25 dogs outside will minimize the noise impacts.

Shall not act as a detrimental intrusion into a surrounding area

The commercial kennel use as proposed will not act as a detrimental intrusion into the surrounding area, and will not negatively impact the surrounding area since the operation of the facility is predominantly located in the rear of the existing home and abutting the vacant portion of the adjacent properties to the north, east, and west. Further, there is a substantial distance from the kennel to the closest residence and the restriction of a maximum of 25 dogs outside will minimize the noise impacts.

Meet the performance standards of the district

The proposal for the commercial kennel, with the approval of a lesser Variance, will meet the performance standards of the district.

Similar in noise, vibration, dust, odor, glare, heat producing

There are no proposed activities on the property that would generate vibration, dust, odor, glare, or heat that is not similar to the other uses allowed within the Zoning district. Furthermore, the noise and sound will be minimized by the proposed sound proofing measures for the indoor operations and by the limitation of the number of dogs outside within the dog run area at any given time.

Landscape buffer yards shall be in accordance with Section 24-5 of the Orange County Code

The proposed landscaping and the trees to be preserved is in compliance with Section 24-5 of Orange County Code.

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances are the proposed operations where clients can only come by appointment. A lesser Variance of 12 parking spaces as recommended by County Transportation Planning to meet actual parking demand would minimize impacts.

Not Self-Created

The request as modified to a lesser Variance of 12 parking spaces is not self-created as it is a viable alternative to meet actual parking demand.

No Special Privilege Conferred

Granting of the lesser Variance of 12 parking spaces would not confer special privilege since it would minimize the impact to the surrounding area, while meeting the parking demand recommended by County Transportation Planning.

Deprivation of Rights

Without the lesser Variance of 12 parking spaces, the applicant would be providing an unnecessary number of spaces.

Minimum Possible Variance

The lesser Variance as modified to 12 parking spaces is the minimum possible due to it meeting the actual parking demand, as affirmed by County Transportation Planning.

Purpose and Intent

Approval of the requested Variance would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding area since the number of parking spaces as modified to a lesser Variance of 12 parking spaces will meet the parking demand for the specific use.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received February 28, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit for the kennel shall be obtained within 3 years of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
5. A permit for Shed #1 and Shed #2 shall be obtained prior to the issuance of the permit for the kennel or the sheds shall be removed.
6. Hours of operation for the commercial kennel shall be Monday through Saturday between 10:00 a.m. to 6:00 p.m. and between 7:00 a.m. to 6:00 p.m., daily, for employees.
7. All dogs shall be kept indoors between the hours of 9:00 p.m. and 8:00 a.m., daily, and a maximum of 25 dogs may be kept in the outdoor run at any given time.
8. The noise and sound emanating from the kennel shall be subject to the requirements of Orange County Code Chapter 15 Environmental Control, Article V Noise Pollution Control, Section 15-182.
9. The number of dogs for the commercial kennel shall not exceed 100.
10. The exterior walls of the kennel building shall have steel thermal insulated panels on all sides except at the front entrance.

C: Juan Santa
15077 Lake Pickett Rd.
Orlando, FL 32820

Cover Letter

Application for special exception: Commercial kennel in a A2 zone.

SIC Group: Agricultural production (livestock)

Address: 15077 Lake Pickett Rd. Orlando, FL 32820

Property Owner: Juan David Valencia

Project Owner: Juan David Valencia

Description of the project:

Current Use: Empty land, pasture

Proposed Use: Commercial dog kennel

Purpose of the request:

size: 4800 SQFT

height: 24'6"

Number of buildings: 1

number of clients: 1 family (3 people on average) at the time

Animals: Small breed Dogs, **maximum capacity** 100 dogs

Employees: 3-4 employees in different shifts, 1 employee per shift

Parking Spaces: 1 Handicapped 1 regular parking spots

Days open to the public: 6 days a week, Sundays off

Hours of operation: 10am to 6pm By appointment only

Provided services: Dog Breeding

Proposed outdoor activities: There will be an outdoor run for the dogs to play outside for limited time during the day

Narrative:

The project:

To establish a state-of-the-art commercial kennel in a 4+ acres single dwelling property in an Agricultural zoned lot surrounded by large pastures, farms, apart country homes and livestock. The property has a bungalow with a pool (60'x60 area including the pool, 2854 sqft. of livable space, 14' height), detached garage (36'x24', 864 sqft., 14' height) and a shed (32'x14', 448 sqft., 14' height); these structures are sitting on at a quarter of the lot size in the south end.

The proposed building will be at the north end of the lot. The space for this structure is currently vacant land covered with grass. The proposed kennel building is 4800 square feet indoor area complemented by a 975 square feet outdoor playground. Inside, the main kennel room is 3120 square feet with 44 dog runs (8' x 3') and 1250 square feet indoor playground. Additionally, there will be a nursery room with 10 dog runs (8' x 3'), a puppy room with 5 runs (8' x 3') and a grooming room. There is also a reception area and a storage room.

The building will be made of steel, insulated, soundproof and climate controlled for hot and cold seasons. The outdoor run will have a soundproof fence along with natural sound barriers.

Our Kennel:

We started breeding dogs in 2006, and built a clientele based on our reputation and word of mouth. Many of our dogs participate in dog shows. We specialize in the following small size, hypoallergenic non shedding family friendly breeds: Yorkshire Terriers (4-7 pounds fully grown), Toy Poodle (6-8 lbs fully grown), Maltese (5-7 lbs fully grown), Shih Tzu (8-12 lbs fully grown), Pomeranian (4-6 lbs fully grown), Miniature Dachshund Long haired and short haired (7-10 lbs fully grown), Cocker Spaniel (15-20 lbs fully grown). We also have 6 golden retrievers. There are on average 6-8 females and 1 male for each breed except for the Maltese that we have 14 females and the yorkies with 12 females.

On average we keep about 80 dogs at any given time, but we are building our facility to host up to 100 dogs at any given time. All our dogs have grown together so they are all used to each other and behave like a real pack; As a matter of fact, our run divisions are made of bars just to make sure the dogs remain in a confined area when they are not under supervision but can still see all each other; except for the runs in the nursing room which require solid walls for obvious reasons. Opposite to traditional dog runs with solid walls. This makes the kennel environment less stressful for our dogs.

Our Operation:

Within our operation, we rarely allow people into our kennel, but our customers are welcome to visit us by appointment only. Usually, our customers learn about us from word of mouth, dog shows or social media, they are placed on a waiting list, and we contact them once a puppy with their desired characteristics becomes available. We do not allow walk-in visits and our hours of operations for customers are limited and subject to our availability; we only allow one family at a specific time slot. Most of the time, we are playing, training, bathing, grooming, and raising our dogs. We do not allow third party's dogs to come into our kennel.

To run our business, we will hire 4 employees. We will make sure there is always a kennel technician at the kennel from 7 am to 6 pm, 7 days a week. There will also be a full-time dog groomer and a dog handler on site. The dogs spend the night inside the run, 2 dogs per run for small breeds and 1 dog per run in the case of the golden retriever; they spend most of the day in the indoor playgrounds and at least 30 minutes in the outdoor playground; always under the supervision of the kennel technician. At nighttime, they go back to a run.

We care about our Neighborhood:

To mitigate any noise hazard that we could cause in our neighborhood, the building will be totally soundproofed with spray foam insulation. On average, a dog's bark reaches between 80-90 decibels and a kennel could reach up to 120 decibels. By using spray foam insulation and installing sound absorbing panels inside the building, we will be able to cut the decibels by more than a half. Besides that, the building setbacks are at least 73 feet on the north, west and east property lines. This means that the noise impact measured at the edge of the property will be no more than 20 decibels which is considered quiet; this information is calculated using a distance attenuation calculator

at the following website: <https://www.omnicalculator.com/physics/distance-attenuation>.

The impact from the noise in the outdoor run will be mitigated by the installation of soundproof fence and natural barrier made of plants with broadleaf evergreen hedges and allowing a limited number of dogs to be in the outside run at the same time. Also, the closest dwelling is at least 250 feet from the proposed building location.

In terms of odors, the impact will be reduced by using a septic tank that will be built exclusively for the kennel. The building will also have a dedicated air circulation system along with the cooling and heating systems.

Lastly:

The agricultural surroundings of the lot is ideal for a kennel and the proposed building location relative to the neighboring dwellings guarantee there will not be any detrimental impact to the community.

Cover Letter

Application for Parking Variance for proposed Commercial Kennel.

SIC Group: Agricultural production (livestock)

Address: 15077 Lake Pickett Rd. Orlando, FL 32820

Parcel Id: 322207000000009

Property Owner: Juan David Valencia

Project Owner: Juan David Valencia

The proposed use of the Property is a commercial kennel facility (the "Project"). The Project proposes a 4800 square foot building and a 975 square foot outdoor play area. Literal interpretation of article XI. Section 38-1476 – Quantity of off-street parking suggests 19 parking spaces would be required for this commercial kennel.

This request is for a variance to allow eight (8) parking spaces in lieu of the required nineteen (19) parking spaces. The specific use proposed by the Project requires substantially less parking than required under Code given that the Project will be appointment based only and the principal use of the property will continue to be Agricultural residential.

Section 30-43(3) of Orange County Code details the specific criteria that must be met for all variance requests. In this case, all the criteria have been met, as discussed below.

1) Special Conditions and circumstances.

The Property is an Agricultural Residential zoned lot and to build a commercial kennel on it as an allowed use, article XI. Section 38-1476 – Quantity of off-street parking must be enforced. Based on the Code, kennels and veterinary clinics should have 1 space for each 300 feet of office, animal shelter and run area. The proposed building will have an area of 5775 SF. all in, which would require 19 parking spaces; this request is for a variance to allow 8 parking spaces in lieu of the 19. The nature of the kennel business, which would be appointment-only based with limited service offered does not require as many parking spaces. Additionally, the property's primary use will continue to be agricultural residential. A substantial number of parking spaces would be unnecessary.

2) Not Self-Created.

The principal use of the Property is agricultural residential and the applicability of article XI. Section 38-1476 is part of the classification of the proposed kennel as a commercial activity.

3) No Special Privilege Conferred.

Approval of the requested variance will not confer on the Owner any special privilege. Several studies conducted for similar projects concluded that a large number of spaces is not required for pet grooming/boarding/daycare facilities, with many recommendations for 1.3 spaces per 1000 SF at comparable commercial facilities, in line with the parking ratio proposed by the requested variance of 1.38 spaces per 1000 SF.

4) Deprivation of Rights.

Denial of the requested variance would deprive the Owner of rights commonly enjoyed by other property owners near the Property and would work unnecessary and undue hardship on the Owner. The cost of building an unnecessary number of parking spaces will result on an enormous impact on the environment, large waste of money for the Owner as well as a deprivation of value of the property. The landscaping of the Owner's residence would turn from a nice native green woody front yard into huge concrete slab.

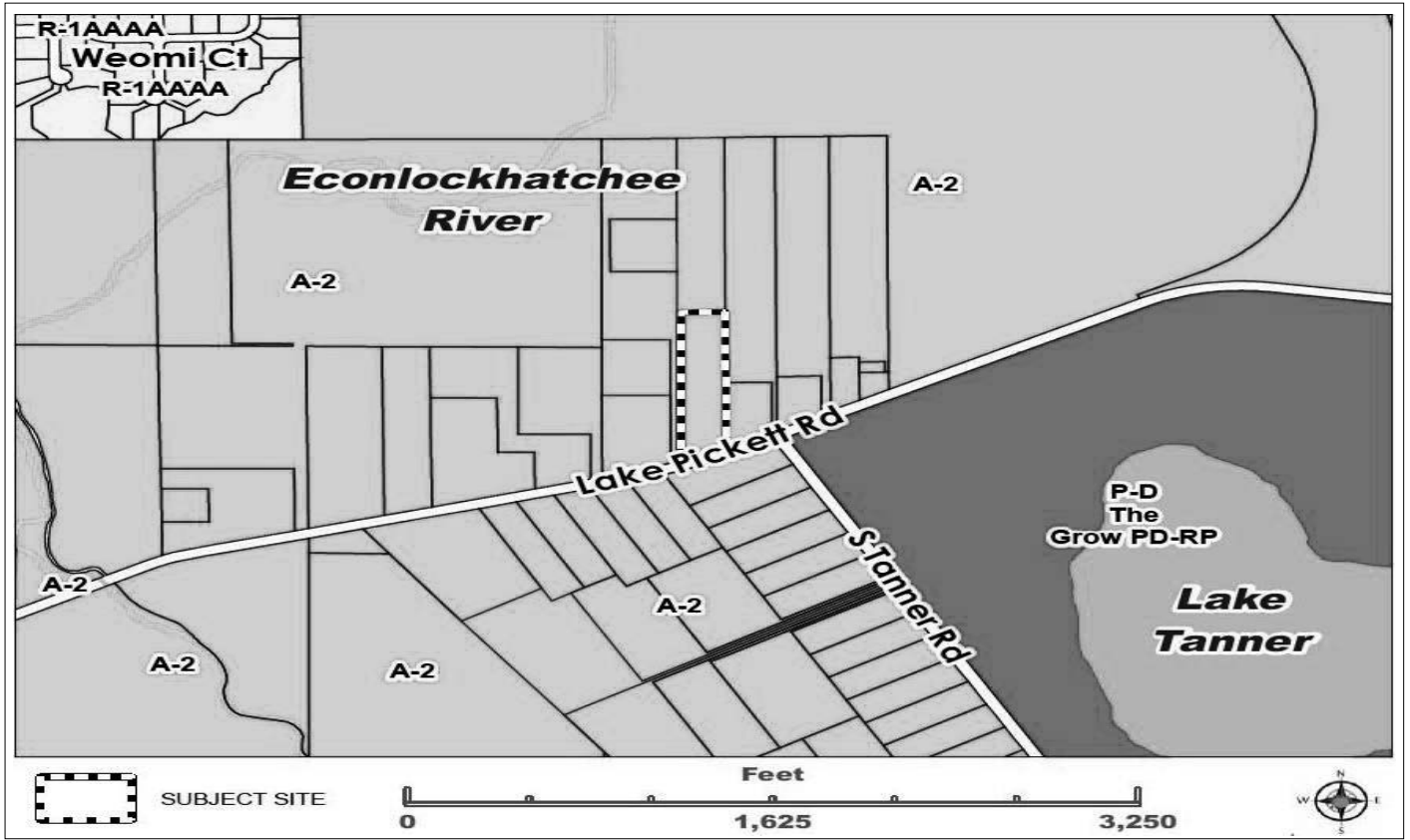
5) Minimum Possible Variance.

The proposed variance is the minimum variance that will allow the Property to be developed. The area of the Property on which the parking spaces may be developed will have the least impact on the environment. No native tree will be replaced by concrete.

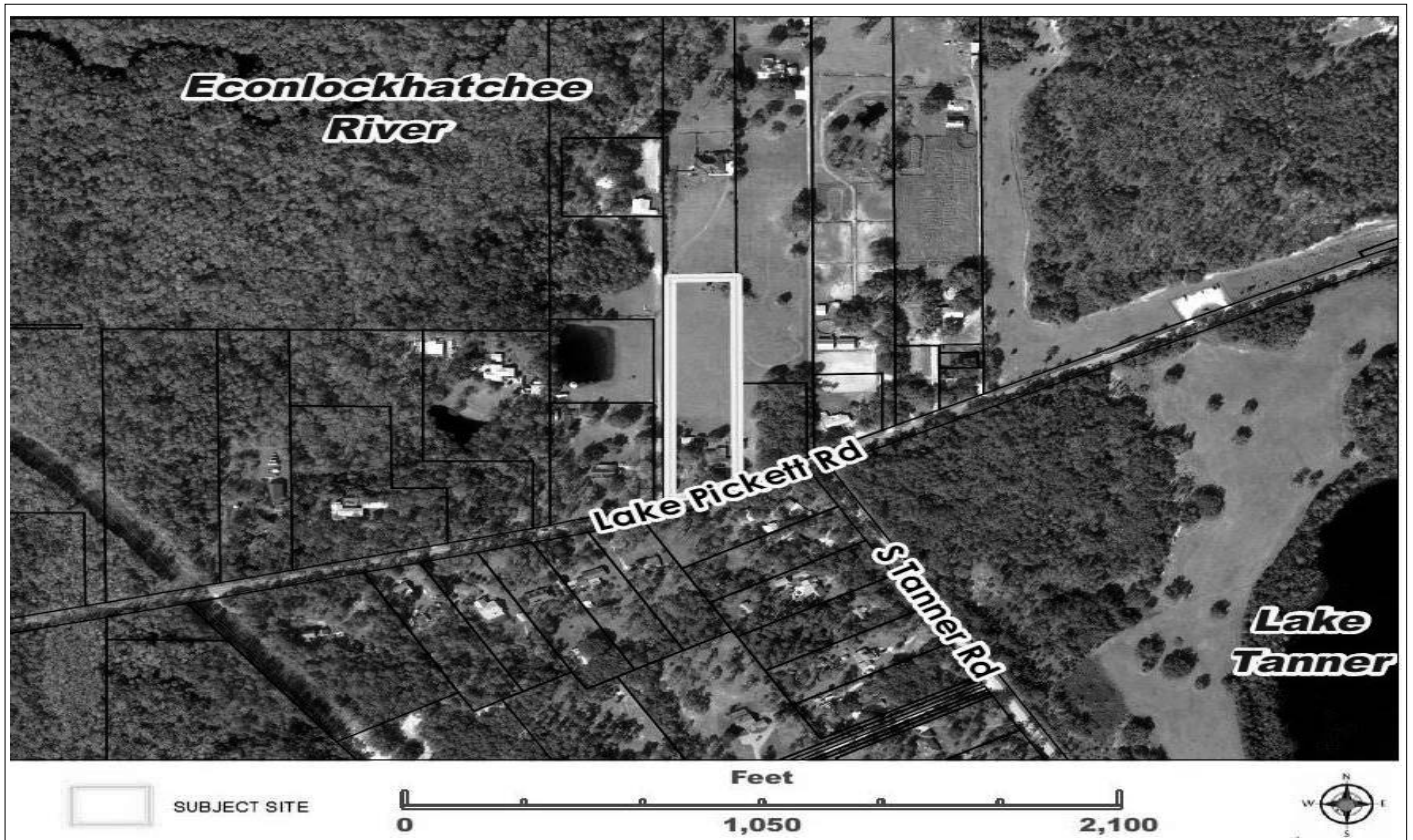
6) Purpose and Intent.

The approval of the requested variance will be in harmony with the purpose and intent of the Orange County Code. Applying Article XI. Section 34-1476 in an agricultural zoned property would result in the unnecessary removal of trees. As outline in Chapter 15, Article III of Code, "the general removal of trees should be appropriately controlled and where possible, existing trees should be preserved on-site as property is developed." Approval of the requested variance will allow the applicant to preserve existing trees where possible. Accordingly, the requested variance will be in harmony with the purpose and intent of the Code.

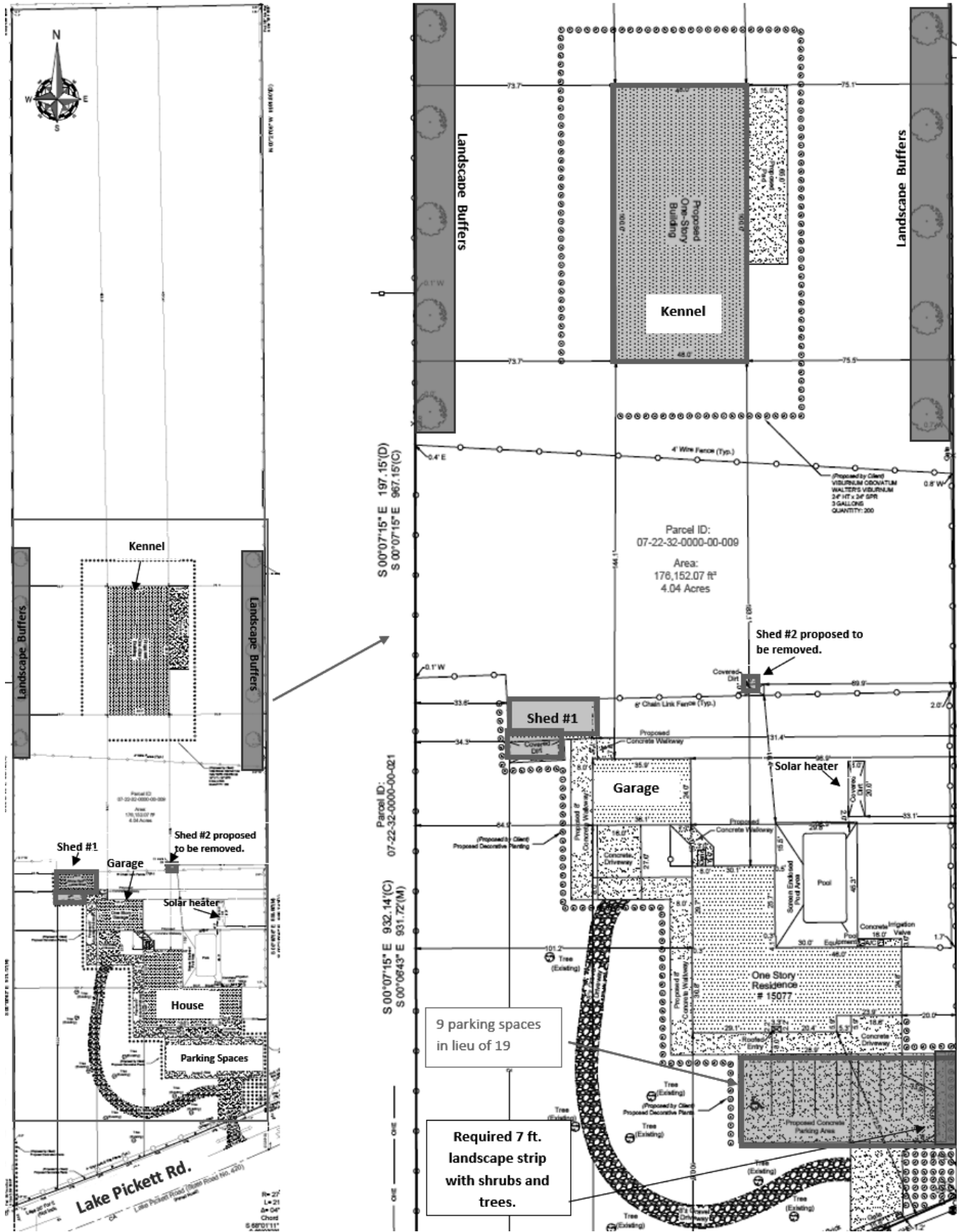
ZONING MAP



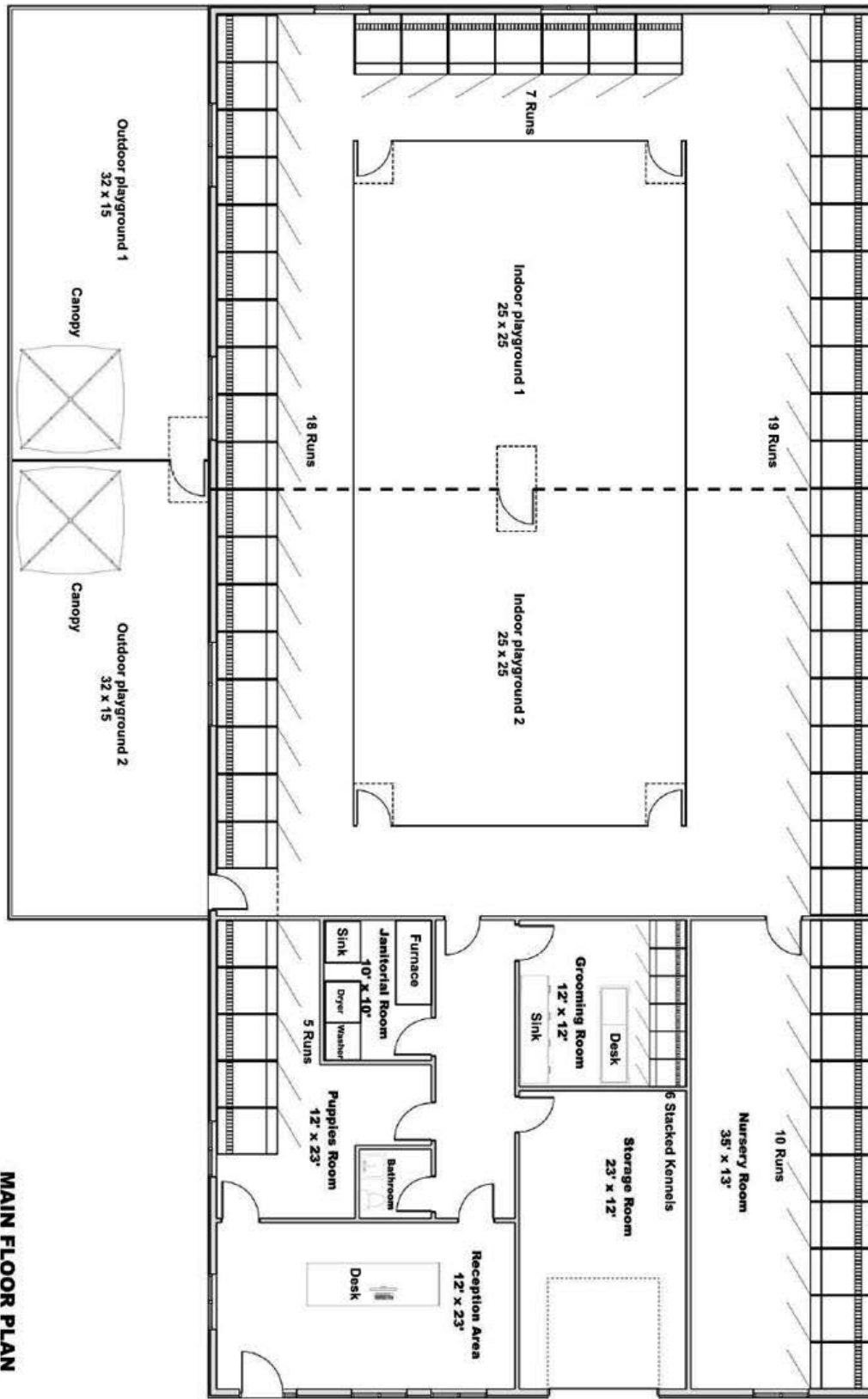
AERIAL MAP



SITE PLAN



FLOOR PLAN

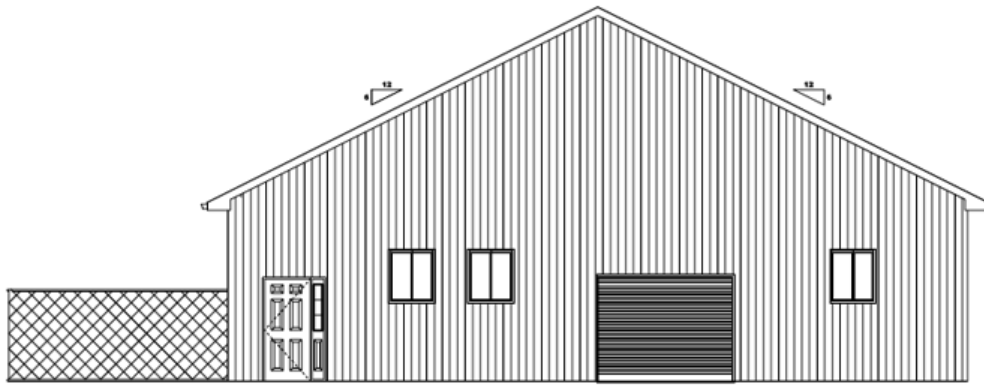


The outdoor dog run is proposed to be relocated on the East side of the building as reflected in the Site Plan.

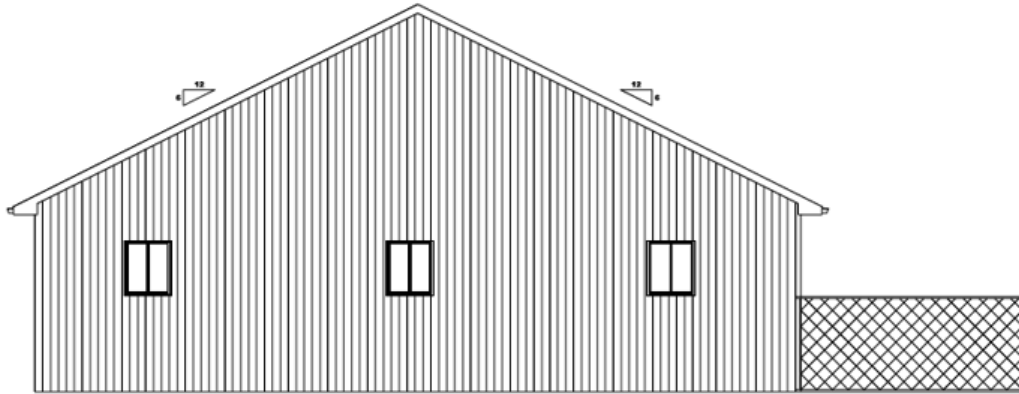
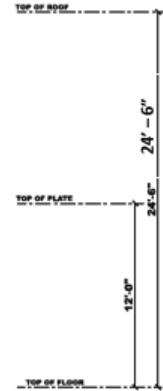


MAIN FLOOR PLAN

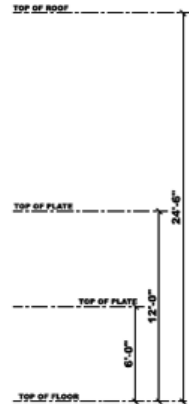
ELEVATIONS



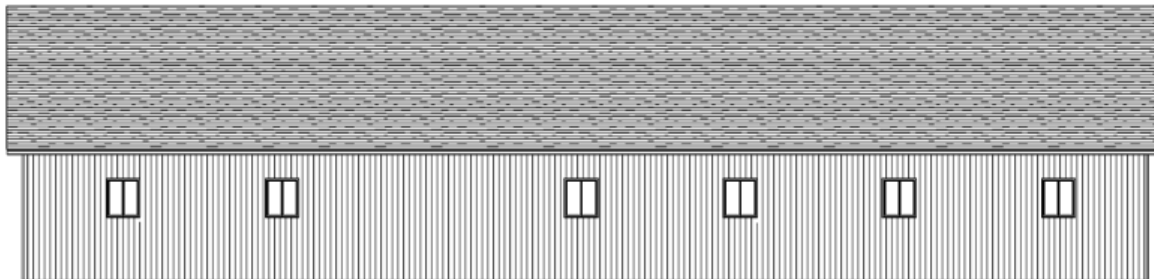
Front Elevation – South



Rear Elevation – North

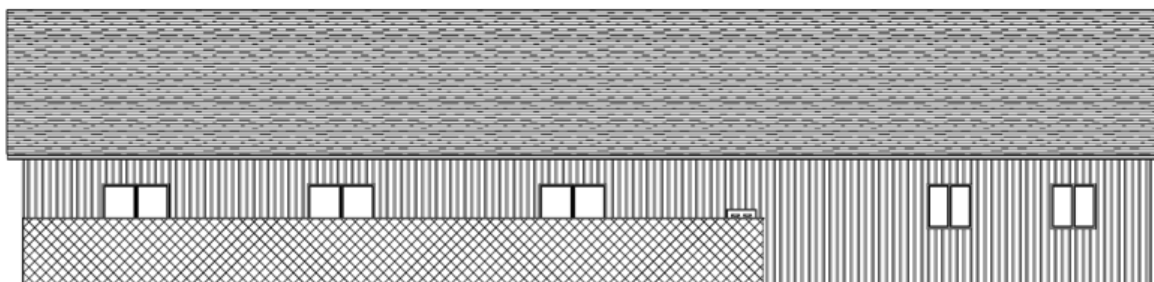


Right Elevation – East



The outdoor dog run is proposed to be relocated on the East side of the building as reflected in the Site Plan.

Left Elevation – West



SITE PHOTOS



Facing north from Lake Pickett Rd. towards front of subject property and proposed parking area



Front yard, facing northeast towards proposed parking location

SITE PHOTOS



Side yard, facing north towards existing Shed #1



Rear yard, facing south towards proposed kennel location

SITE PHOTOS



Rear yard, facing south towards proposed landscape buffer locations

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#1**

Case #: **VA-23-04-008**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MIKE FITZPATRICK

OWNER(s): WINTER IS A VERB LLC

REQUEST: Variance in the PD zoning district to allow a generator with a west side setback of 4 ft. in lieu of 10 ft.

PROPERTY LOCATION: 10224 Summer Meadow Wy., Orlando, FL 32836, south side of Summer Meadow Wy., west of Winter Garden Vineland Rd., north of Vista Blvd.

PARCEL ID: 18-24-28-3106-00-230

LOT SIZE: +/- 0.4 acres (17,837 sq. ft.)

NOTICE AREA: 500 ft.

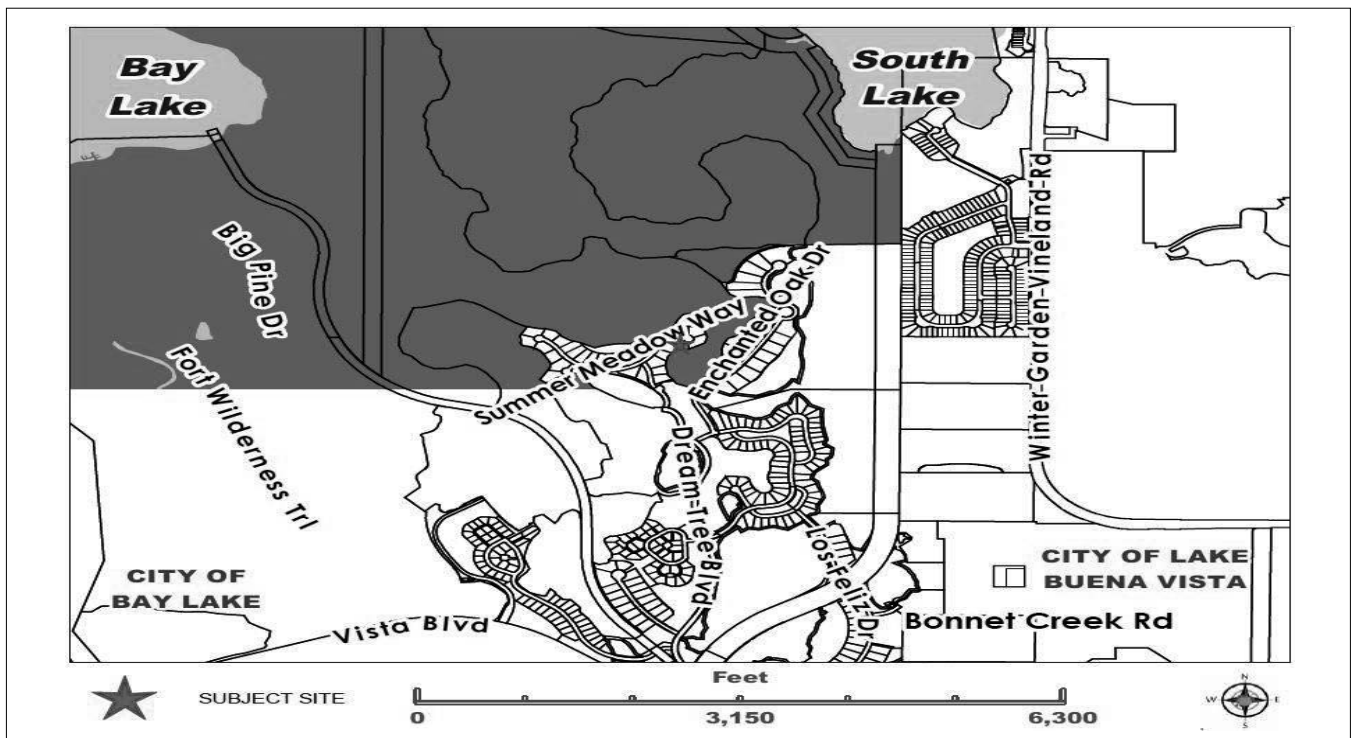
NUMBER OF NOTICES: 32

DECISION: **CONTINUED TO THE MAY 4, 2023, BZA HEARING** (Motion by John Drago, Second by Thomas Moses; unanimous; 6 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Charles Hawkins, II, Roberta Walton Johnson; 0 opposed; 1 absent: Juan Velez).

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	North East Resort Parcel PD	North East Resort Parcel PD	City of Bay Lake	North East Resort Parcel PD	North East Resort Parcel PD
Future Land Use	PD-C/LDR/CONS	PD-C/LDR/CONS	City of Bay Lake	PD-C/LDR/CONS	PD-C/LDR/CONS
Current Use	Single-family residential	Single-family residential	City of Bay Lake	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the North East Resort Parcel PD, which allows single-family residential uses and associated accessory structures. The future land use is Planned Development- Commercial/Low Density Residential/Conservation, which is consistent with the zoning district.

The subject property is an approximately 0.4 acre lot, located in the Golden Oaks Phase 3 Plat, recorded in 2015, and is considered to be a conforming lot of record. It is developed with an 11,114 gross sq. ft. single family home and swimming pool built in 2017. The applicant purchased the property in 2022.

The applicant is proposing to install a 96.5” x 38”, 48.9” high permanent generator 4 ft. from the west side property line, adjacent to the existing house, where a 10 ft. setback is required by County Code Sec 38-79(16), requiring a Variance. The generator will operate normally at 68 decibels (Db) noise level from a distance of 23 ft. The generator will be set to self-test every week at 59 Db. Normal conversation is 60 Db. When the unit is operating at full power during a power outage, it operates at a level of approximately 68 Db, which is between the sound of conversation in a restaurant and a dishwasher, or an a/c compressor.

The applicant is proposing to install the generator on the same (west) side of the property as 2 A/C condensers, and the meter panels. The pool equipment is located on the south side of the home, and additional A/C condensers are located on the east side. The applicant has indicated that the generator must be 3 ft. from the electric service, which does not leave any other appropriate location on the property, and thus a Variance is required. The equipment is proposed to be screened from the street due to the staggered façade of the house, and by the existing extensive landscaping along the front and side of the property.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Min. Lot Width:	70 ft.	145 ft.
Min. Lot Size:	6,000 sq. ft.	17,837 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement (PD)	Proposed
Front:	10 ft.	10.2 ft. – House (North)
Rear:	5 ft.	10.3 ft. House (South)
Side:	10 ft. generator (when adjacent to house) 5 ft. house	4 ft. Generator-(West- Variance) 10.1 ft. House (West) 7.5 ft. House-(East)

STAFF FINDINGS

VARIANCE CRITERIA**Special Conditions and Circumstances**

The location of the existing home with a 10.1 ft. setback from the west side property line is a special condition and circumstance, and the need to place the generator 3 ft. from the electric service leaves no other location available.

Not Self-Created

The applicant is not responsible for the existing configuration of the lot, and setback dimensions.

No Special Privilege Conferred

The existing setback of the house renders the installation of a generator difficult without a Variance since the site is constrained.

Deprivation of Rights

Without the requested Variance, the applicant would not be able to place a permanent generator within the side yard near existing equipment and the main panel.

Minimum Possible Variance

Due to the setback, the location of improvements and constrained lot, the requested Variance is the minimum possible.

Purpose and Intent

Approval of this request would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood. The proposed generator location in the side yard is located beside existing A/C units and will be screened from adjacent properties by existing dense landscaping. Further, when in operation, the generator would emit similar noise levels as currently experienced and is screened by landscaping, and therefore would not create adverse impacts.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received March 6, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The generator shall be screened from view by landscaping (e.g. bushes or shrubs). If the existing shrubs along the front property line in front of the generator are damaged or removed, they shall be replaced by similar landscaping and adequately screen the equipment from view from the street.

C: John Fitzpatrick
1980 Dolgner Pl., Suite 1028
Sanford, FL 32771

Mackenzie Fuchs

10224 Summer Meadow Way

Orlando FL 32836

Orange County Zoning Division

201 S. Rosalind Ave, 1st floor

Orlando, FL 32801

Variance Request – Whole House 80 KW Generator Installation

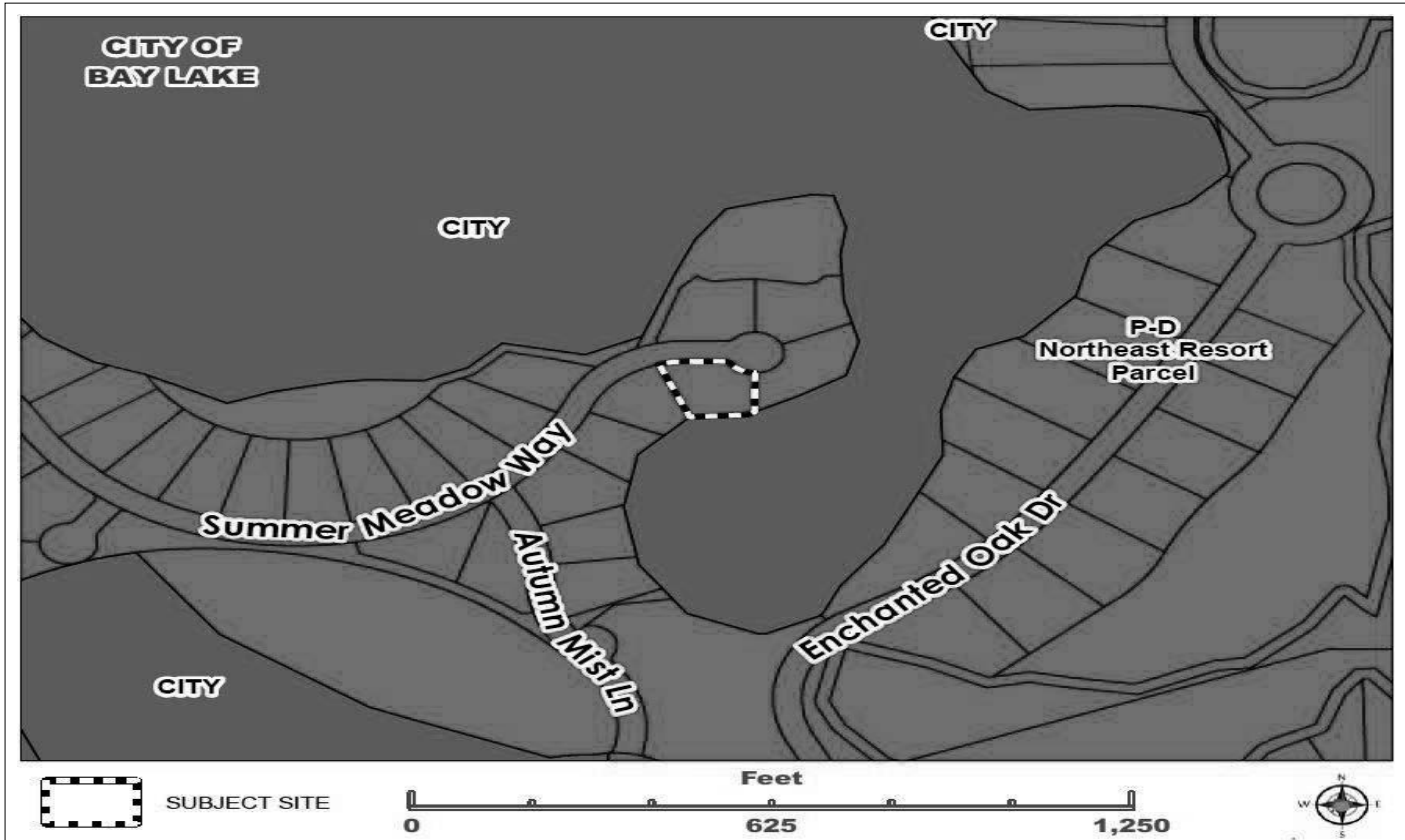
Parcel # 18-24-28-3106-00-230

I request a zoning variance to locate a whole house 80KW generator within four feet setback from the property line vs the ten feet required by code. This location will meet the proper setback of three feet from the service area. The generator will be set on a concrete pad. The dimensions are 8'L x 3'W x 3'H.

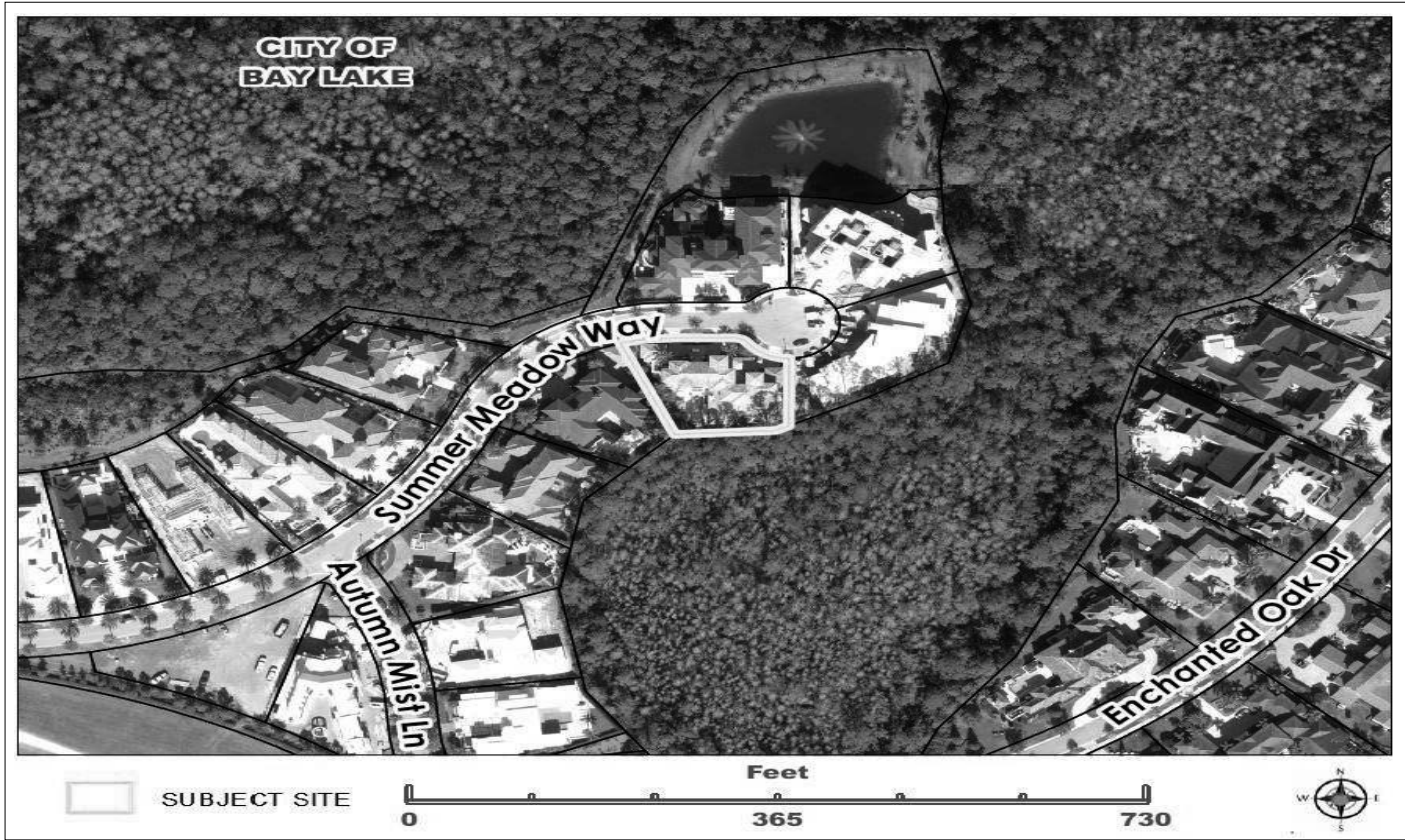
Variance Criteria:

1. **Special Conditions:** If guidelines for the generator location are followed, the generator will encroach in the utility area.
2. **Not Self-Created:** The circumstances do not result from actions of the applicant. The generator needs to be located three feet from the service area.
3. **No Special Privilege Conferred:** The applicant is not aware of any special privileges conferred by the approval of the requested variant.
4. **Deprivation of Rights:** The requested variant will only affect the applicants property and has no effect or cause any undue hardship to the applicant or others.
5. **Minimum Possible Variance:** The requested variance is the minimum variance that will make possible the reasonable use of the land and location of the generator, four feet of set back from the property line.
6. **Purpose and Intent:** Approval of the zoning variance will be in harmony with the purpose and intent of the zoning regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The generator decibel level is 68db under load.

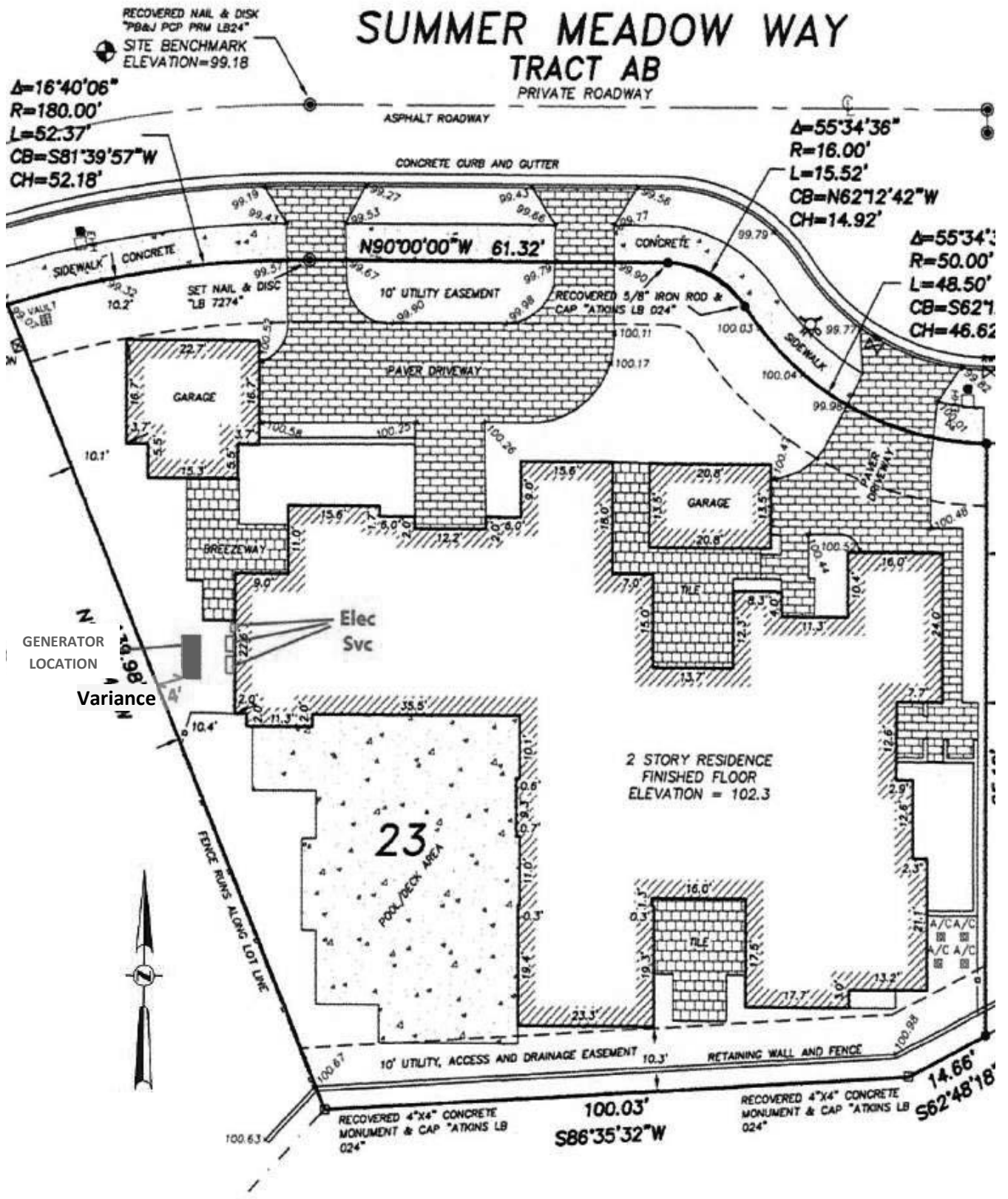
ZONING MAP



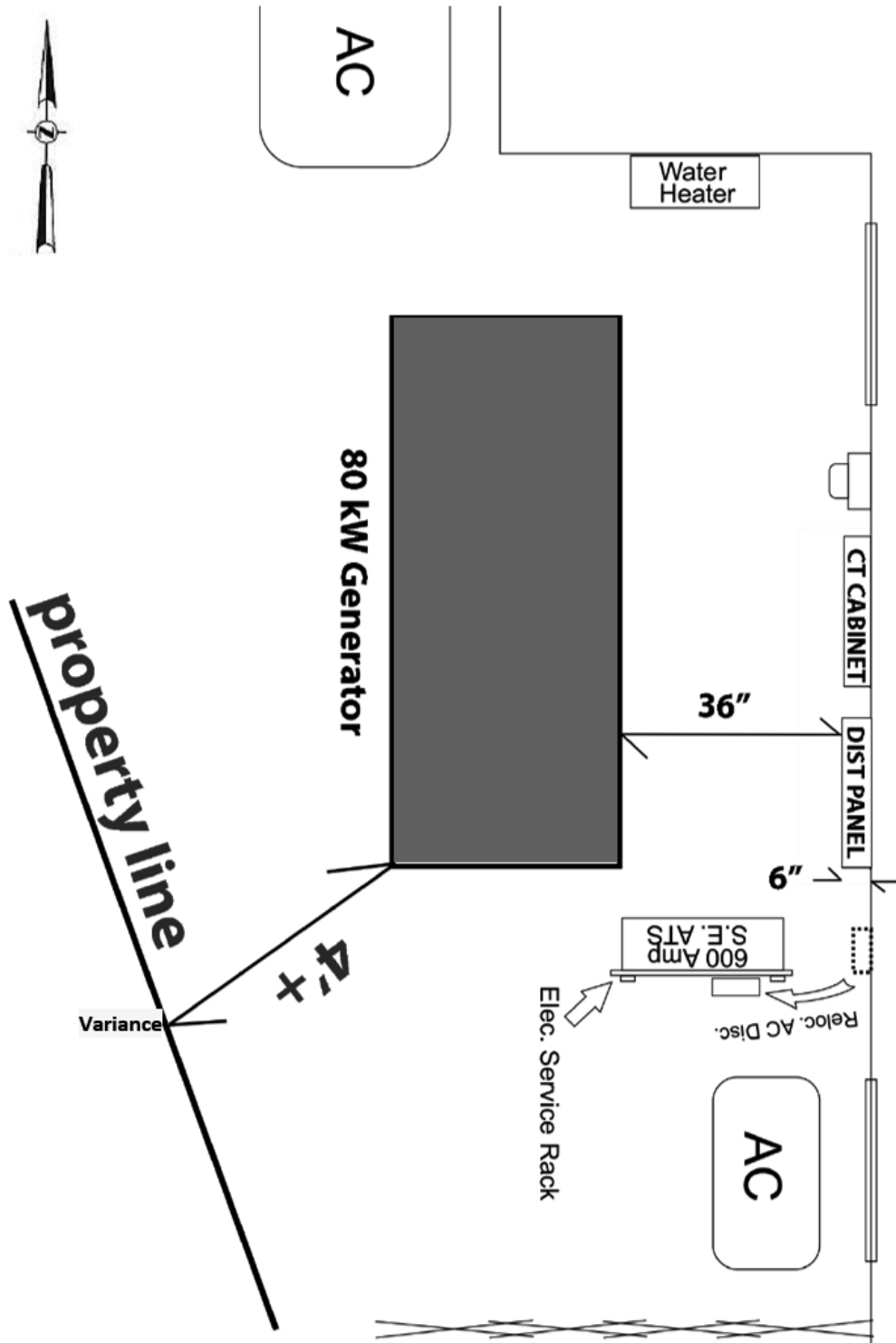
AERIAL MAP

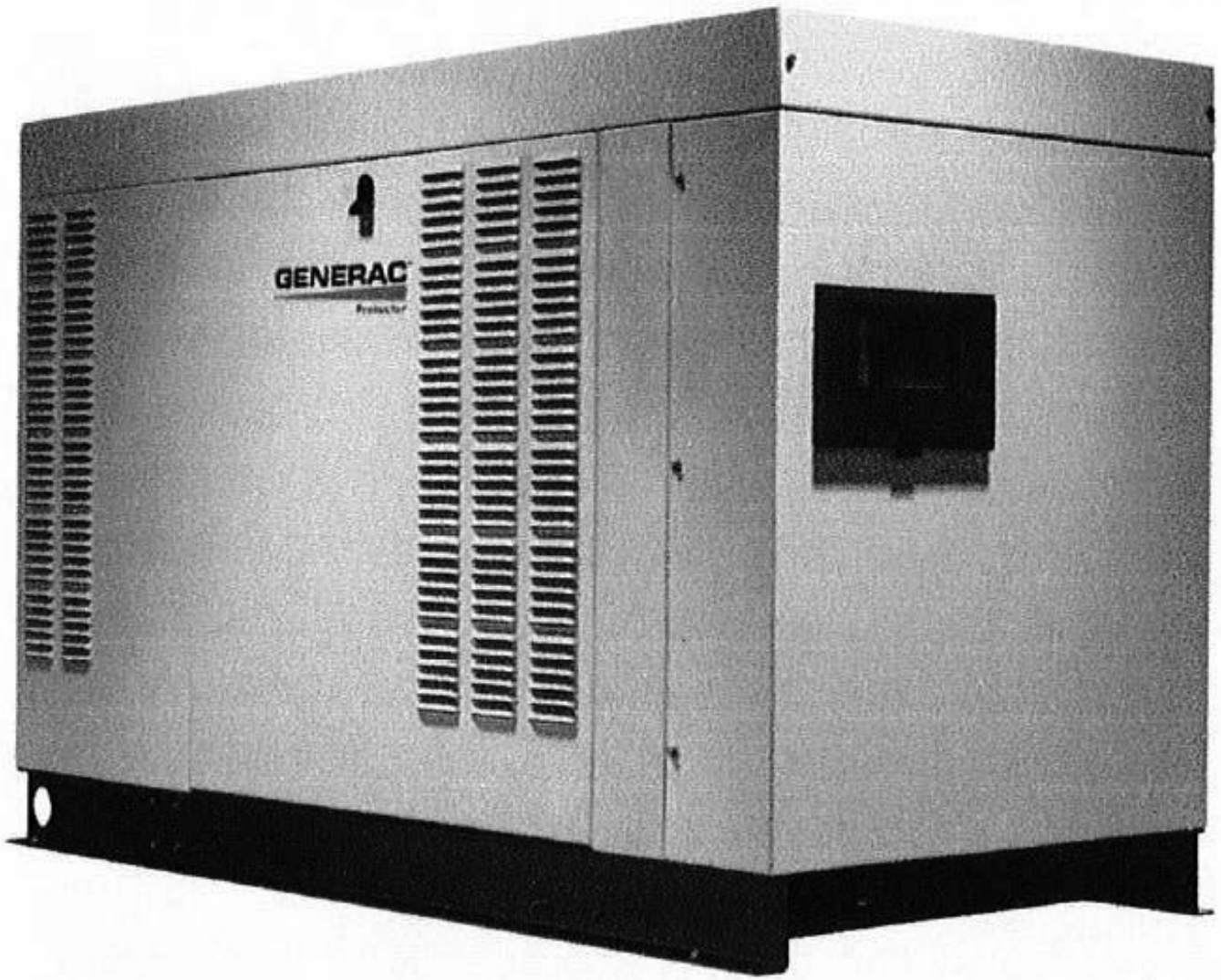


SITE PLAN



GENERATOR LOCATION DETAIL





SITE PHOTOS



Front from Summer Meadow Way facing east



Proposed generator location facing east

SITE PHOTOS



Proposed generator location facing north

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#3**

Case #: **VA-23-02-154**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MICHAEL HARDING FOR BIG IRON INTL

OWNER(s): BIG IRON INTL. INC.

REQUEST: Variances in the I-1/ I-5 zoning district as follows:

1) To allow an existing north side setback of 7.8 ft. in lieu of 25 ft.

2) To allow an existing north side setback of 8.9 ft. in lieu of 25 ft.

3) To allow an existing west front setback of 31.1 ft. in lieu of 35 ft.

Note: This is the result of Code Enforcement.

PROPERTY LOCATION: 5313 Patch Rd., Orlando, FL 32822, east side of Patch Rd., south of Hoffner Ave., west of S. Goldenrod Rd., east of S. Semoran Blvd.

PARCEL ID: 14-23-30-5240-09-073

LOT SIZE: +/- 1.75 acres

NOTICE AREA: 900 ft.

NUMBER OF NOTICES: 37

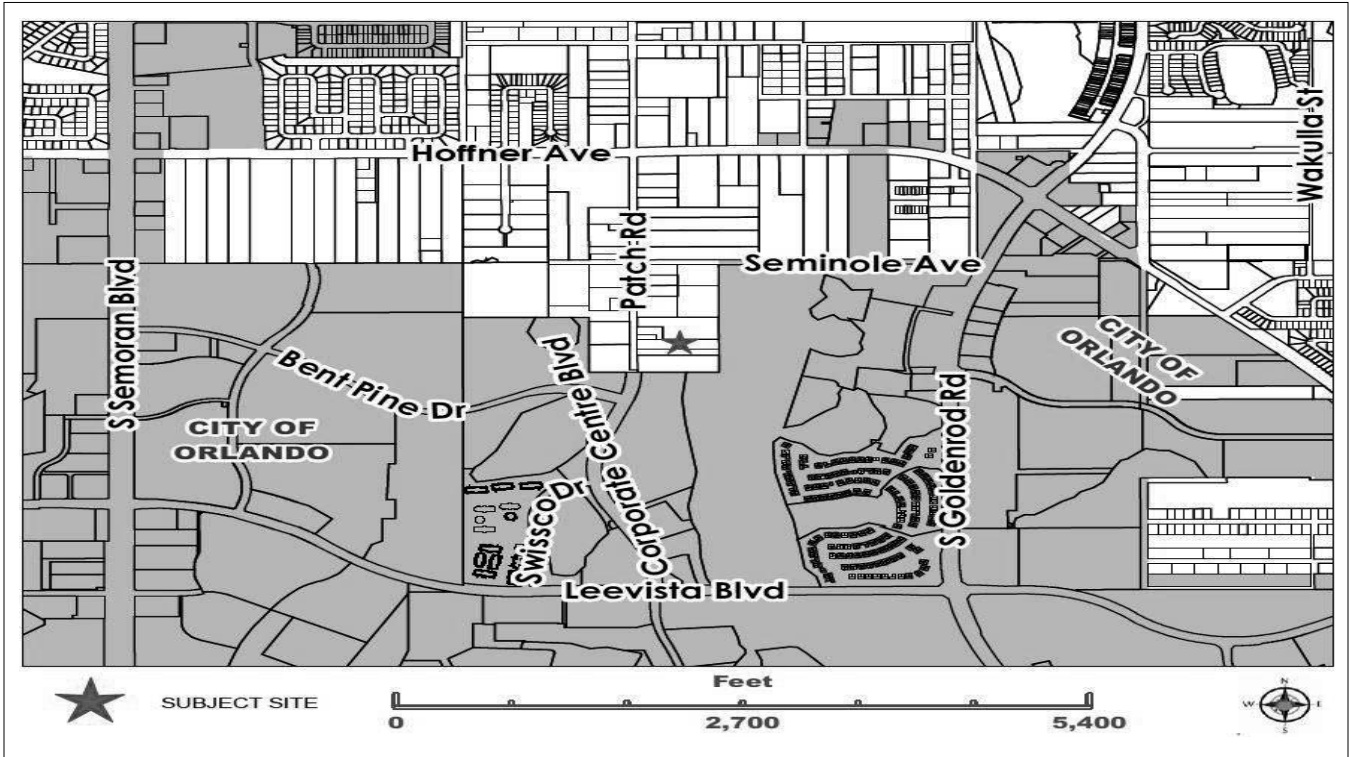
DECISION: **CONTINUED TO THE JULY 6, 2023, BZA HEARING** (Motion by Deborah Moskowitz, Second by John Drago; unanimous; 6 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Charles Hawkins, II, Roberta Walton Johnson; 0 opposed; 1 absent: Juan Velez).

SYNOPSIS: The applicant requested a continuance to the to the July 6, 2023, BZA Meeting, so that they could work with the homeowner of the A-2 property to the north to pursue a rezoning of that site to an industrial zoning district, which would enable them to use the zero (0) ft. side setback.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	I-1/ I-5	A-2, I-1/ I-5, Restricted I-1/ I-5	Restricted I-1/ I-5	City of Orlando	I-1/ I-5
Future Land Use	IND	IND	IND	City of Orlando	IND
Current Use	Industrial	Single-family residential, Commercial, Vacant	Vacant	Vacant	Commercial, Industrial

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the I-1/ I-5, Industrial district, which allows light manufacturing and low intensity industrial development that will have minimal impact on surrounding areas. The Future Land Use is Industrial, which is consistent with the zoning district.

The area around the subject site consists of commercial, industrial, and vacant land, with a single family residence located to the north. The subject property is a 1.75 acre lot, located in the Los Terranos Plat, recorded in 1928, and is considered to be a conforming lot of record. It is developed with a 2,343 sq. ft. building used for offices, Building #1, originally constructed in 1986 as a single-family residence, and an unpermitted 2,734 sq. ft. storage building, Building #2, constructed in 2021, as well as 3 additional smaller unpermitted structures (Buildings #3, #4 and #5), built between 1990 and 2009, based on Property Appraiser

information. Building #1 was converted to an office use approximately 15 years ago. The owner purchased the property in 2018.

The proposal is to allow the existing 2,734 sq. ft. storage building, building #2, to remain with a north side setback of 7.8 ft. in lieu of 25 ft., necessitating the need for Variance #1. The existing 2,343 sq. ft. building #1 was built 8.9 ft. from the north side property line in lieu of 25 ft., necessitating the need for Variance #2, and 31.1 ft. from the west front property line in lieu of 35 ft., necessitating the need for Variance #3 to recognize the existing setbacks, respectively. Buildings # 3, 4 and 5 are proposed to be removed from the property prior to obtaining a permit for Building #2. The I-1/ I-5 Zoning District allows for one side setback to be reduced to zero (0) ft. if the setback on the other side is increased to 50 ft. However, this cannot be applied if the side that is reduced is contiguous to a residential district. In this case, the property abuts a 50 ft. strip of A-2 zoning to the north, thus this provision cannot be applied to the north side, which necessitates the need for Variances #1 and #2.

A Code Enforcement citation was issued in May 2021 for the construction of Buildings #2, #3, #4 and #5, without permits (Incident 5838595). In 2021, The owner applied for building permits for buildings #3 and #4 (Permit #'s B21907233 and B21907343), however, these permits expired. The owner has applied for a building permit for the storage building #2 (Permit # B21907233) which is on hold pending the outcome of this request.

The Orange County Environmental Protection Division has no objection to the Variance requests.

As of the date of this report, 2 comments have been received in favor of the requests from property owners to the north, including the owner of the adjacent residentially zoned property. No comments have been received in opposition to the requests.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	15.7 ft.
Min. Lot Width:	N/A	120 ft.
Min. Lot Size:	N/A	1.75 acres

Building Setbacks (that apply to structures in question)

	Code Requirement	Proposed
Front:	35 ft.	31.1 ft. (West -Variance #3)
Rear:	25 ft.	204.8 ft. (East)
Side:	25 ft.	58.1 ft. (South) 7.8 ft. (North -Variance #1) 8.9 ft. (South- Variance #2)

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property includes the 50 ft. portion of the north property line abutting a residential district, A-2, which triggers the need for Variances #1 and #2; and the existing footprint of Building #1, constructed in 1986 with as-built front and side setbacks. Also, the adjacent A-2 zoned property has an Industrial Future Land Use, so it is expected that it will be rezoned to Industrial at some point in the future. Further, Building #2 is actually adjacent to Industrial zoning, and not the A-2 zoned property.

Not Self-Created

The requests are not self-created since there are no other options available without partially or completely demolishing Buildings #1 and #2 to meet code requirements. The owner is not responsible for the for the portion of the property abutting the A-2 zoning district to the north or the existing location of Building #1 as constructed in 1986.

No Special Privilege Conferred

Granting the requested Variances will not confer any special privilege conferred to others under the same circumstances. Meeting the literal interpretation of the code would require the existing buildings to be removed, modified or relocated on a property that substantially abuts similar industrial uses. Further, the existing side and front setbacks of Building #1 have existed since it was constructed in 1986.

Deprivation of Rights

Without the requested Variances, the existing buildings proposed to remain would need to be removed or modified to meet the side and front setbacks.

Minimum Possible Variance

The requested Variances are the minimum necessary to allow the existing buildings proposed to remain.

Purpose and Intent

Approval of these requests would be in harmony with the purpose and intent of the Zoning Regulations as the code is primarily focused on minimizing the impact that structures have on surrounding properties, which are not detrimental to the surrounding neighborhood. There are limited impacts to the adjacent property to the north abutting the A-2 District since it is over 200 ft. from Building #2 to the closest residence. Building #1 has been in its current location relative to the front and side property lines for over 36 years. Further, a minimum 25 ft. Type C landscape buffer will be provided, consisting of trees and shrubs along the north property line that abuts the 50 ft. of A-2 residential district.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and elevations received March 17, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The 3 sheds labelled on the site plan for removal as Buildings #3, 4 and 5, shall be removed prior to issuance of a building permit for the storage building (Building #2).
5. A permit for the storage building shall be obtained within 1 year of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
6. A minimum 25 ft. Type C landscape buffer shall be provided, consisting of trees and shrubs along the north property line that abuts the 50 ft. of A-2 residential district.

C: Michael Harding
5005 Jennifer Place
Orlando, FL 32807

C: Clifford Kennedy
5295 Patch Road
Orlando, FL, 32822

M Harding Enterprises, Inc.

5005 Jennifer Place, Orlando Florida 32807

Phone: 407-342-8386

Email: michael@mhardingenterprises.com

January 29th, 2023

Orange County Zoning Division
201 S. Rosalind Ave., 1st Floor
Orlando, FL 32801

RE: Variance Application VA-23-02-154 5313 Patch Road

This letter is to respond to the comments received via email December 23, 2022. This is the cover letter with the specific requests as indicated in the original application and modified as requested by staff in the referenced email the afternoon of the 23rd of December.

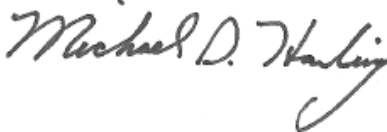
The specific request is quite simple. We are requesting a reduction in the side setback for the building located nearly 70 feet, (69.07') east of the east property line of 5295 Patch Road. This property is zoned A-2 and the subject property is zoned IND-1/IND-5 which does not allow building within 25 feet of A-2 zoning. This is a special case with this existing building. We are requesting a reduction from the 25' side setback to the northwest corner of the structure to 7.85 feet and from the northeast corner to 8.01 feet. These setbacks are to the roof overhang of this structure. We have letters of no objection for the two adjacent property owners.

To mitigate for this reduction we propose to plant a 5' side landscape hedge in addition to the existing 6' tall wooden fence. This structure does not actually abut any A-2 property. It abuts IND-1/IND-5 property.

Please consider this request as this structure is vital to the continued operation of this business and again has no objections from the adjacent property owners.

Thank you for your consideration and cooperation in this matter.

Sincerely;



Michael D. Harding, P.E.
MHarding Enterprises, Inc.

M Harding Enterprises, Inc.
5005 Jennifer Place, Orlando Florida 32807
Phone: 407-342-8386
Email: michael@mhardingenterprises.com

November 9, 2022

This letter is written as clarification and justification for the variance request at 5313 Patch Road, Orlando Fl. 32822.

The subject parcel is located along the east side of Patch Road south of Hoffner Avenue. The property is zoned IND-1/IND-5 with a future land use designation of Industrial. The entire area has a future land use designation of Industrial, including the parcel currently zoned A-2 located at 5295 Patch Road. The subject parcel is adjacent to a portion of this A-2 zoned property.

The specific request is to reduce the north, 25-foot side yard setback to a variable amount ranging from a minimum of 6.31 feet to a maximum of 12.5 feet. The buildings affected are located on the industrial zoned property to the rear of 5313 Patch Road and have specific address of 5315 and 5319 Patch Road respectively. All buildings are under the same ownership and are industrial non-residential use, consistent with this zoning district and the future land use designation. These structures are steel framed roof structures. The 3-sided structures are open only to the south, away from the adjacent A-2 zoned property. These structures are used specifically for maintenance of construction equipment and storage of equipment related to the construction business. The need for this reduction is to bring these two existing structures into compliance with the zoning code.

Based on the historical aerials the subject site had 4 structures on the property in 1990. The 1994 aerial also shows these four structures. The original structure, the converted residence at 5313 Patch Road dates back before 1984. The shed located between 5313 and the building recently addressed as 5315 is still on the site. The structure located where 5315 is currently located was reconstructed in 2019 with a new roof. This original shed structure and the renovated 5315 building have been on the site as visible in the 1990 aerials, these structures are adjacent to the A-2 zoned property.

The property the buildings are located on is zoned IND-1 / IND-5 and except for approximately 7.7% (50 feet) of the property abuts like zoning of IND-1/IND-5. There are three different property owners adjacent to the north property line of the subject property. Two of the properties are zoned IND-1/IND-5 and account for 92.3% of the bordering property. The subject property is 634.53 feet deep. The adjacent IND-1/IND-5 property is 150 feet deep. The third property was re-zoned to A-2 from IND-1/IND-5 and is the only residential use, not conforming to the future land use designation of industrial, in the general area fronting Patch Road. This 200-foot deep, property is "L" shaped with the smaller portion being only 50 feet in width, comprising only 25% of the total depth of the property.

Variance Criteria:

1. **Special Conditions and Circumstances** - This property is adjacent to IND-1/IND-5 property on all sides and is in an industrial use area of the county. Except for the small finger of a portion of the adjacent A-2 property being only 50 feet of the total 634.53 feet of depth, or less than 8% this property there is no other residential use in this area. There is an industrial use located at 5303 Patch Road, between the subject property and the A-2 property that does not have the required 25-foot setbacks. If it were not for this small portion of abutting A-2 property the subject site could take advantage of Section 38.932(a)(8) and reduce the north setback to zero feet and provide for a 50-foot setback on the south property line.
2. **Not Self-Created** – The owner of the subject property erected the structures in question over the existing concrete slabs and in the same location as previous buildings. The landowner erected these buildings during the Covid pandemic to provide income for his work staff. The property zoned A-2 was zoned years ago and is the only residential property in the area. This property owner talked to the adjacent property owners prior to erecting the roof structures and was encouraged by them and had no objections.
3. **No Special Privilege Conferred** – On the contrary this is the only property where this provision of the zoning code is being applied. By approving this request, this property owner will be enjoying the same conditions as the adjacent landowner who is more of an impact than this landowner. This condition does not exist on any other property in this zoning district in this industrial area, except for the property located on 5303 Patch Road.

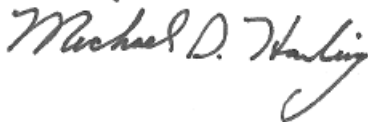
Zoning Variance 5313 Patch Road

4. **Deprivation of Rights** –Without this approval this landowner will be forced to remove the structures and most likely will have to re-locate his business to another property. If the provisions of Section 38.932(a)(8) were granted or this variance is granted this landowner can continue his business as usual. The other property in this same zoning district with the same conditions is being allowed to continue with their business and have not adversely impacted the adjoining property. The current property owners of the adjoining property have granted permission and have written letters of no objection to this request. This granted request will allow the current landowner to continue his business in the same manner as the previous business prior with these structures in the same location.
5. **Minimum Possible Variance** –This request is for the minimum required to bring the buildings into compliance. Again, this property should be allowed to exercise the provisions of Section 38.932(a)(8) which would allow a Zero setback. This request only for a reduction in the vicinity of the existing structures and not the entire property.
6. **Purpose and Intent** – With this approval this business and landowner will be able to continue his activities as the intended use in this Zoning District. Had the property adjacent not been re-zoned to residential this request would not be required. The current business is in harmony with all the other business in this district and in this area, except for the A-2. The home on the A-2 property and the use of that property will not be affected by the granting of this variance. The adjacent landowner has written a letter of no objection to this request. This landowner had agreed to install landscaping along this portion of the property to screen the use if required. The existing 6' wood fence is also an approved screening between these two uses.

In summary by granting this request these two structures will be compliant with the current zoning and will remain consistent with the future land use designation of this area. The only property affected; 5295 Patch Road, have provided letters of no objection to this action. Thank you for your consideration in this request.

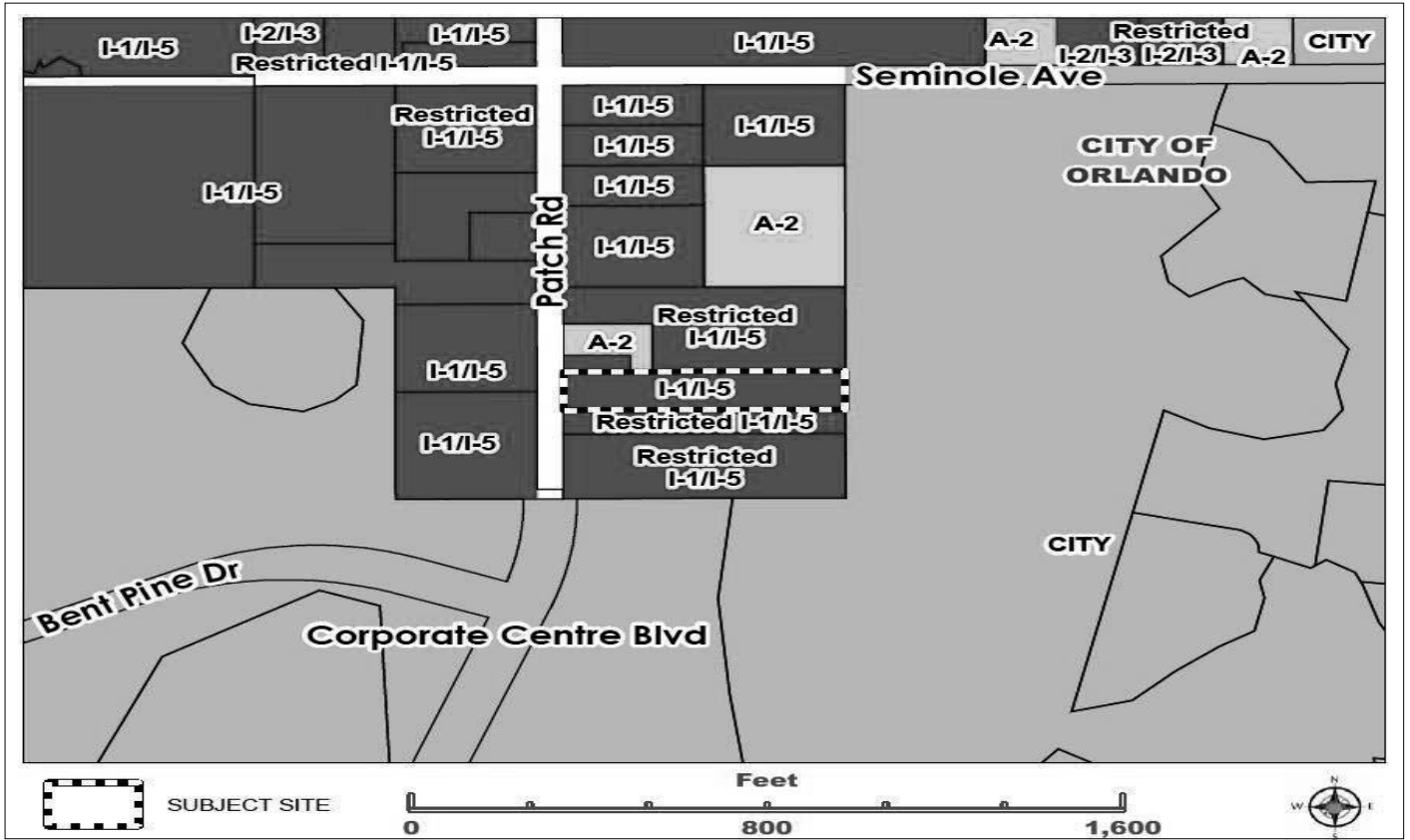
MHarding Enterprises, Inc.

Sincerely,



Michael D. Harding, P.E.

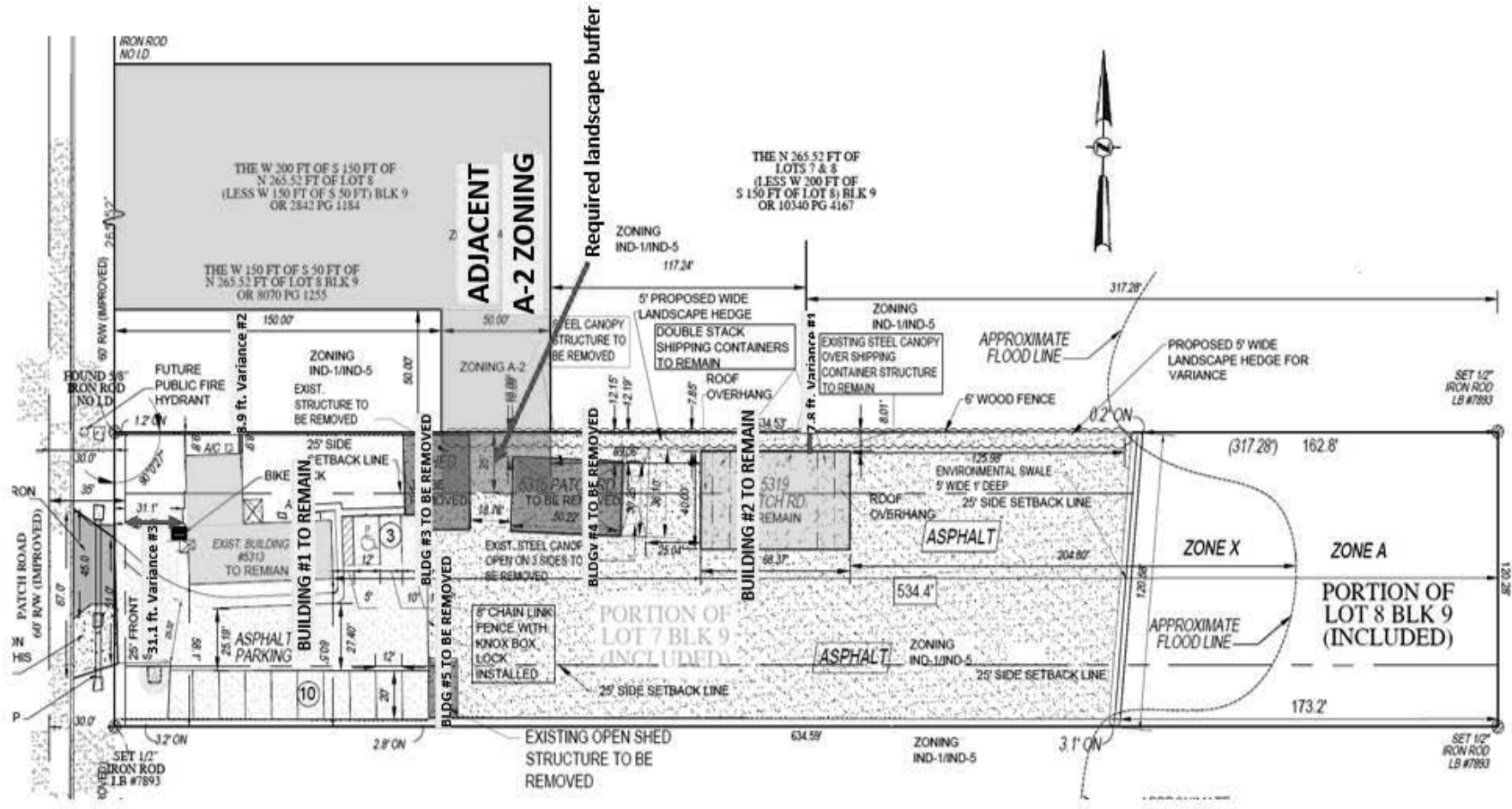
ZONING MAP



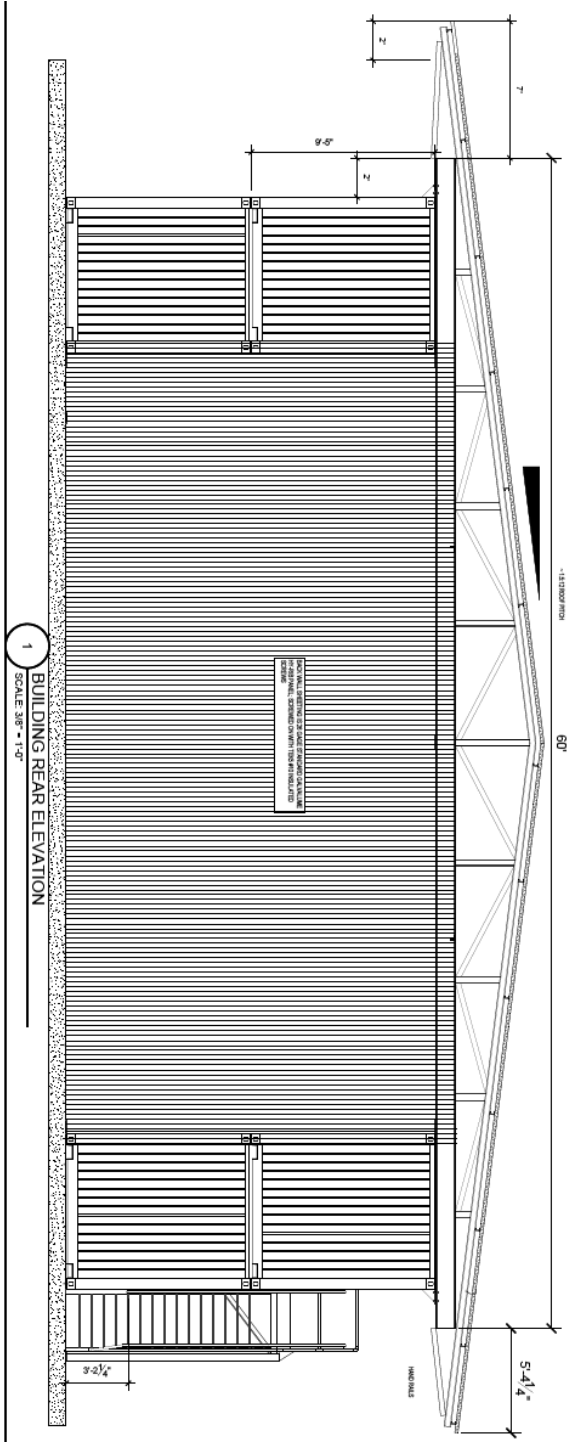
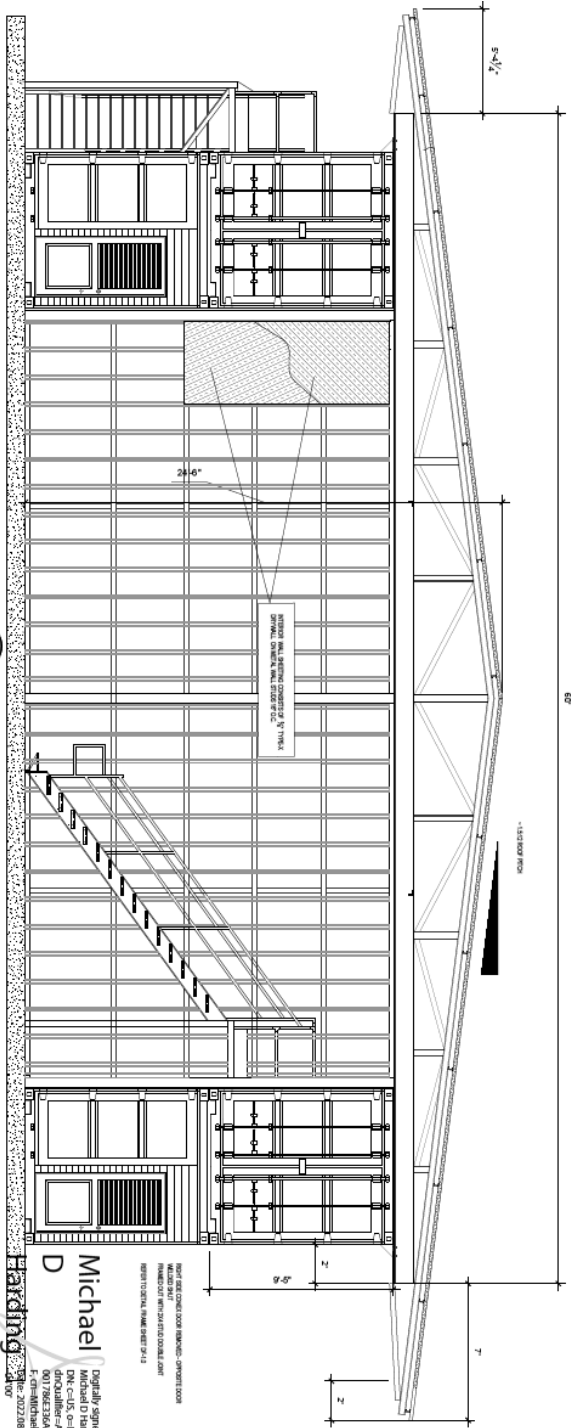
AERIAL MAP



SITE PLAN



BUILDING #2 ELEVATIONS



This item has been digitally signed and sealed by Michael Hardy on this date signatory to this seal.
Printed copies of this document are not considered legal and the signature must be verified on www.docusign.com

Michael Hardy
Digitally signed by Michael Hardy
DN: cn=Michael Hardy, o=Michael Hardy
OU=Michael Hardy, email=MH@MICHAELHARDY.COM
c=US

2022/08/19 09:27:08 -04'
Hardy
2022/08/19

SITE PHOTOS



From Patch Rd. facing E towards Building #1 with side setback, Variance #2 and front setback, Variance #3



Facing north towards Building #2 to remain

SITE PHOTOS



Facing west towards Building #2 to remain and side setback with Variance #1



Buildings #3 and #4 to be removed facing east

SITE PHOTOS



Building #5 to be removed facing south



Rear portion of property facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#6**

Case #: **VA-23-04-005**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): MARIE AUGUSTIN

OWNER(s): MARIE AUGUSTIN

REQUEST: Variances in the R-1A zoning district as follows:

1) To allow an addition with a south rear setback of 16.59 ft. in lieu of 30 ft.

2) To allow the existing house to remain with an east side setback of 7.05 ft. in lieu of 7.5 ft.

Note: This is the result of Code Enforcement.

PROPERTY LOCATION: 6430 Lauren Ct., Orlando, FL 32818, south side of Lauren Ct., west of N. Powers Dr., east of N. Hiwassee Rd., north of W. Colonial Dr.

PARCEL ID: 24-22-28-0592-01-130

LOT SIZE: +/- 0.18 acres (8,245 sq. ft.)

NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 119

DECISION: Recommended **APPROVAL** of the Variance requests in that the Board finds they meet the requirements of Orange County Code, Section 30-43(3); further, said approval is subject to the following conditions (Motion by Charles Hawkins, II, Second by Roberta Walton Johnson; unanimous; 6 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Charles Hawkins, II, Roberta Walton Johnson; 0 opposed; 1 absent: Juan Velez):

1. Development shall be in accordance with the site plan received March 7, 2023, subject to the conditions of approval and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

4. The shed at the rear of the property shall be removed or permitted in a conforming location prior to issuance of a building permit for the addition to the house.
5. The addition shall be painted the same color as the existing house.
6. A permit for the addition shall be obtained within 6 months of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

SYNOPSIS: Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for approval. Staff noted that no comments were received in support or in opposition.

The applicant confirmed that the shed was on the property prior to purchase and that nothing is being stored on the property.

The BZA discussed the permit that was applied for but expired for the addition, confirmed that the shed was on the property before the applicant purchased the property but that the applicant was going to move it into a conforming location, and discussed the cleanup of the property.

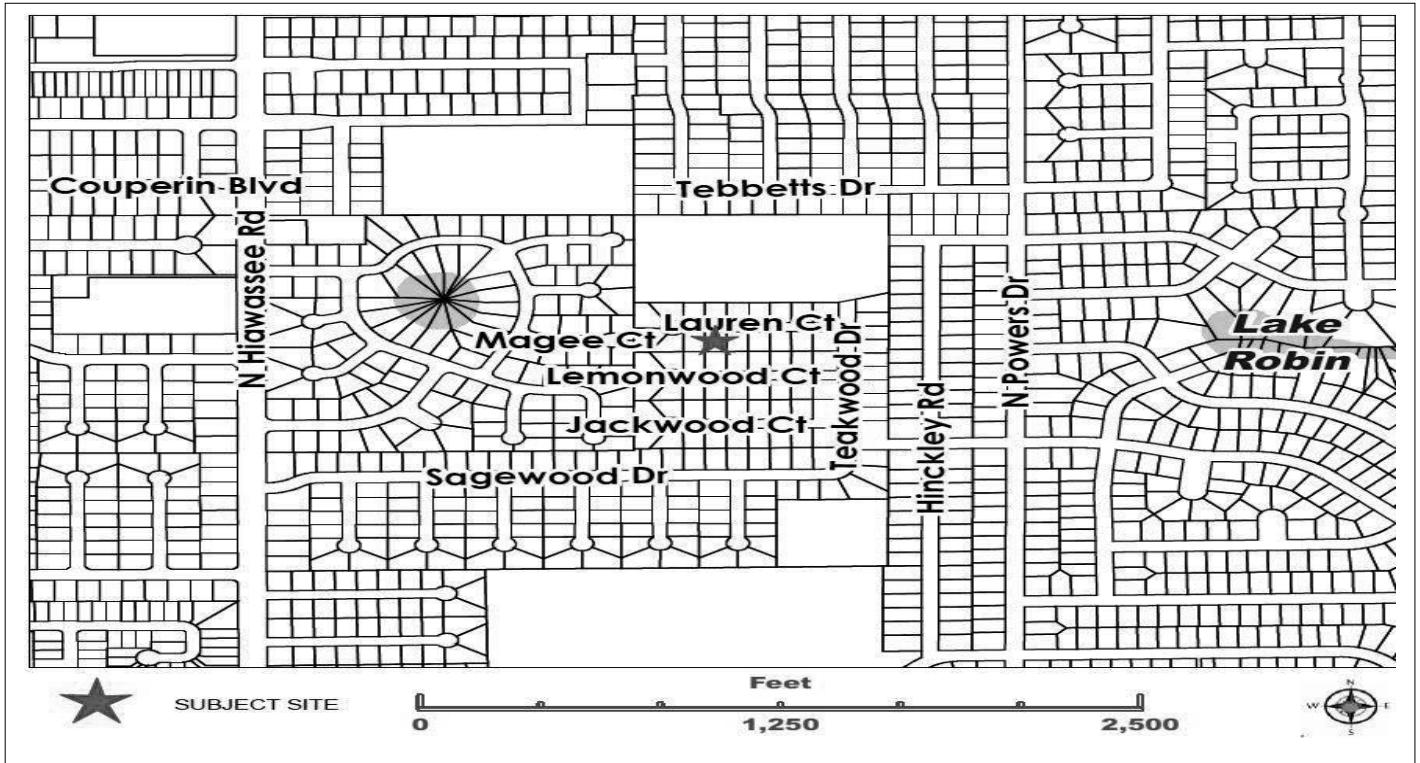
A person spoke in favor of the request and confirmed that the shed was on the property before the applicant purchased it.

The BZA discussed the variances and stated justification for the six (6) criteria and unanimously recommended approval of the variances by a 6-0 vote, with one absent, subject to the six (6) conditions found in the staff report.

STAFF RECOMMENDATIONS

Approval, subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	R-1A	R-1A	R-1A	R-1A	R-1A
Future Land Use	LDR	LDR	LDR	LDR	LDR
Current Use	Single-family residential	Single-family residential	Single-family residential	Single-family residential	Single-family residential

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A, Single-Family Dwelling district, which allows single-family homes and associated accessory structures and requires a minimum lot area of 7,500 sq. ft. The Future Land Use is Low Density Residential (LDR), which is consistent with the R-1A zoning district.

The subject property is a 0.18 acre lot, located in the Bel Aire Woods First Addition Plat, recorded in 1967, and is considered to be a conforming lot of record. It is developed with a 2,741 gross sq. ft. single-family home, constructed in 1968, an unpermitted 696.78 sq. ft. addition built in 2019, and an unpermitted 112 sq. ft. shed that was built prior to 2004 per aerials. The applicant purchased the property in 2004.

A Code Enforcement citation was issued in June, 2022 for outside storage of trash and debris, the construction of a fence without a permit, and the construction of an addition to the rear of the house without a permit (Incident 609516). The owner has applied for a permit for the addition in August of 2022 (B22018355), which expired on March 15, 2023, as it was never issued. The trash and debris do not appear to have been cleaned up.

The proposal is to allow the existing 696.78 sq. ft. rear addition with 3 bedrooms and a bathroom, to remain with a south rear setback of 16.59 ft. in lieu of 30 ft., necessitating the need for Variance #1. Since the existing residence was built 7.05 ft. from the east side property line in lieu of 7.5 ft., Variance #2 is being requested to recognize this setback. Further, there is an existing west side setback of 7.44 ft. to the existing residence that has received an administration waiver. Per Sec.38-1508 (a) (b) of the Orange County Code, “the zoning manager shall have the authority to grant administrative waivers from the performance standards set forth in section 38-1501 ..., provided that no such administrative waiver shall exceed three (3) percent of the applicable requirement for the side yards...” The existing unpermitted shed violates the rear setback and encroaches into a utility easement, and the applicant will be required to remove or relocate the shed to a conforming location.

The requests are not detrimental to the neighborhood, as the side setback for the house is not noticeable, and the rear setback is not significantly discernable from neighboring properties and is not noticeable from the street. Further, due to the design and placement of the house, there is no other location to do an expansion to the house.

As of the date of this report, no comments have been received in favor or in opposition to this request.

District Development Standards

	Code Requirement	Proposed
Max Height:	35 ft.	9.9 ft.
Min. Lot Width:	75 ft.	75 ft.
Min. Lot Size:	7,500 sq. ft.	8,245 sq. ft.

Building Setbacks (that apply to structure in question)

	Code Requirement	Proposed
Front:	25 ft.	27.27 ft. (North)
Rear:	30 ft.	16.59 ft. (South Variance #1)
Side:	7.5 ft.	7.05 ft. (East Variance #2) 7.44 ft. West

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property are its size and location of the house, which renders any addition difficult without a Variance, and the house was constructed in 1968 with existing non-conforming side setbacks.

Not Self-Created

The requests are not self-created since the owners are not responsible for the configuration and location of the home in relation to the rear and side property lines.

No Special Privilege Conferred

The existing rear setback of the house renders any improvements difficult without a Variance since the site is constrained, and the existing side setback has existed since the house was constructed in 1968.

Deprivation of Rights

Without the requested Variances, improvement to the home of a reasonable size would be difficult, and the existing side setback would remain non-conforming.

Minimum Possible Variance

The requested Variances are the minimum necessary to construct any improvements at the rear of the property, and to allow the existing home to remain as was constructed in 1968.

Purpose and Intent

Approval of these requests would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood since the existing improvements are compatible with other residences in the surrounding area. Furthermore, the side and rear setbacks are not significantly discernable from neighboring properties and are not noticeable from the street, thereby limiting any quantifiable negative impacts to surrounding property owners.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan received March 7, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. The shed at the rear of the property shall be removed or permitted in a conforming location prior to issuance of a building permit for the addition to the house.
5. The addition shall be painted the same color as the existing house.
6. A permit for the addition shall be obtained within 6 months of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

C: Marie Augustin
6340 Lauren Court
Orlando, FL 32818

01/26/2023

To Whom it May Concern:

COVER LETTER TO THE BOARD OF VARIANCE ADJUSTMENT DEPARTMENT

I am Augustin Marie A, the present owner

6430 Lauren Ct Orlando Fl 32818

Parcel ID# 24-22-28-0592-01-130

To:

Orange County Variance Division
201 South Rosalind Avenue, 1st floor
Orlando Fl 32801

Variance Application Cover letter

This cover letter is for a variance from the requirements to keep an As-built addition to the existing house as built to be approved for this address:

When I purchased the property, Porch, extensions, and out door kitchen were already built to the existing house, which totalized 16.59 feet extension to the Rear set-back in lieu of 30' setback.

So, I am requesting 13.41 feet for the rear setback for the extension to the already "As Built "

A 30 feet setback must be available, but I went farther. Fortunately, there will be no loss or deprivation of rights by any other property in the same zoning district. The location of the requested variance is not affecting, hurt or harm the public welfare or neighborhood.

I believe this request meets the six standards for variance approval outlined below:

COVER LETTER

JANUARY 26TH, 2023

Augustin Marie A

5705 Wingate Dr

6430 Lauren CT, Orlando, FL 32818

Project Parcel ID: 24-22-28-0592-01-130

To: ORANGE COUNTY ZONING DIVISION

201 South Rosalind Avenue, 1st Floor, Orlando, Florida 32801

Phone: (407) 836-3111; Email: BZA@ocfl.net

www.orangecountyfl.net

Re: Variance Application

- Variance in the R-1A zoning district to allow a 696.78 sqft addition to the Rear of the existing house to create more rooms for family members. The As-Built addition has a 13.41 in lieu of 30 ft. This is the result of a Code Enforcement.

I believe this request meets the six standards for variance approval outlined below:

1.- SPECIAL CONDITIONS AND CIRCUMSTANCES.

My residence falls into the R-1A zoning district category, which allows a 30 ft rear setback and 7.5 ft sides setback. The property had to be repaired when I purchased it and I believe it was necessary to make some improvements. The plan was to add 3 bedrooms and a bath to the rear side of the house. I am requesting this variance to allow me to add 3 bedrooms and a bathroom to the rear of the house.

2.- NOT SELF-CREATED.

We are just proposing to increase the square footage of the existing house to make it more livable and be able to accommodate the family. The addition will be consistent with the pattern of the surrounding development and will be compatible with the surrounding area.

COVER LETTER

3- NO SPECIAL PRIVILEGE CONFERRED.

Granting the variance would not confer any special privilege. The surrounding area falls typically into the same zoning district category, with similar requirements in size and shape, the use will not act a detrimental intrusion into the surrounding area.

4.- DEPRIVATION OF RIGHTS.

The project will be part of the existing house. There is no intention to build, to develop or violate any restrictions. It will not be used as other than the permitted uses.

5- MINIMUM POSSIBLE VARIANCE.

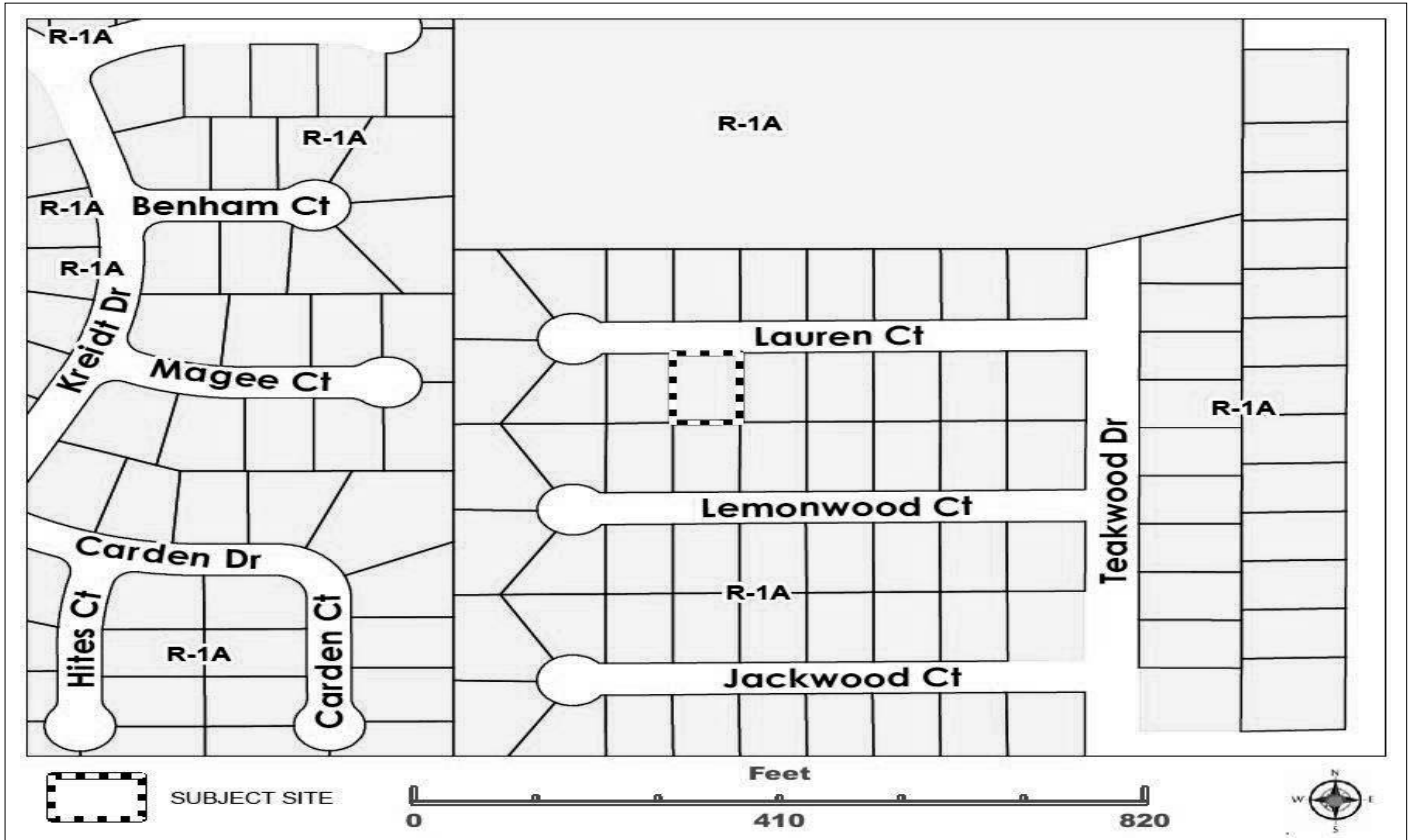
The As-built Addition is located to the rear of the existing House, there should be no concern with noise, odor ... There is 6 ft high opaque wood fence surrounding the property from our neighbors. Approval of this request would not be detrimental to our neighborhood or public welfare.

6.- PURPOSE AND INTENT.

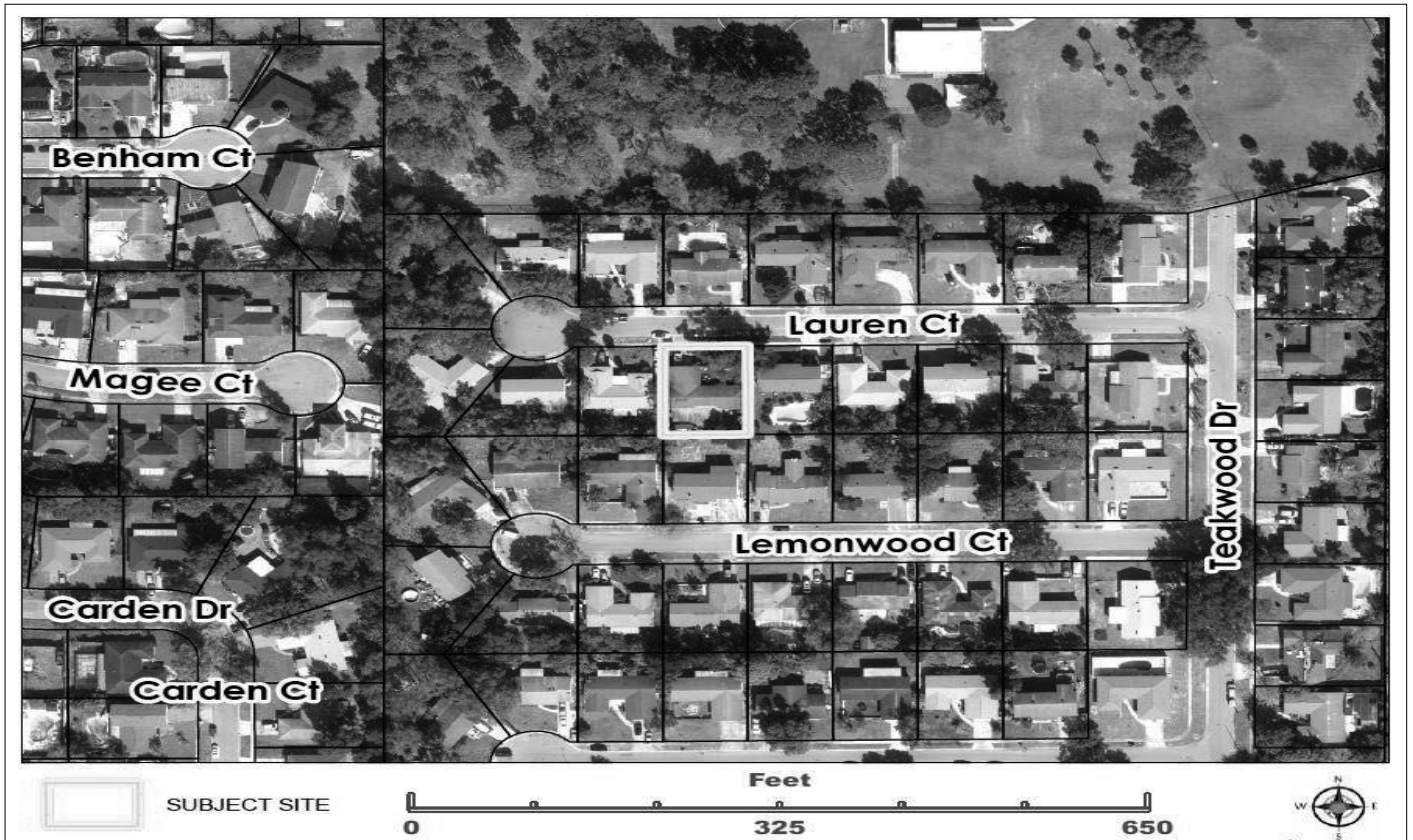
As mentioned above, the intent and purpose of this application is to add a 696.78 square feet to allow more family members to live. The impact on surrounding properties shall be significantly minimal due the 6ft tall opaque fence surrounding the property, the project will not be visible from any of our neighbors. There should be no concern with any quantifiable negative impact to the surrounding property owners. Hence, approval of the requested variance would be in harmony with the purpose and intent of the Zoning Regulations. We are hoping this request can be approved. Please see attached documents to this request.

Marie A. Augustin
MARIE A. AUGUSTIN

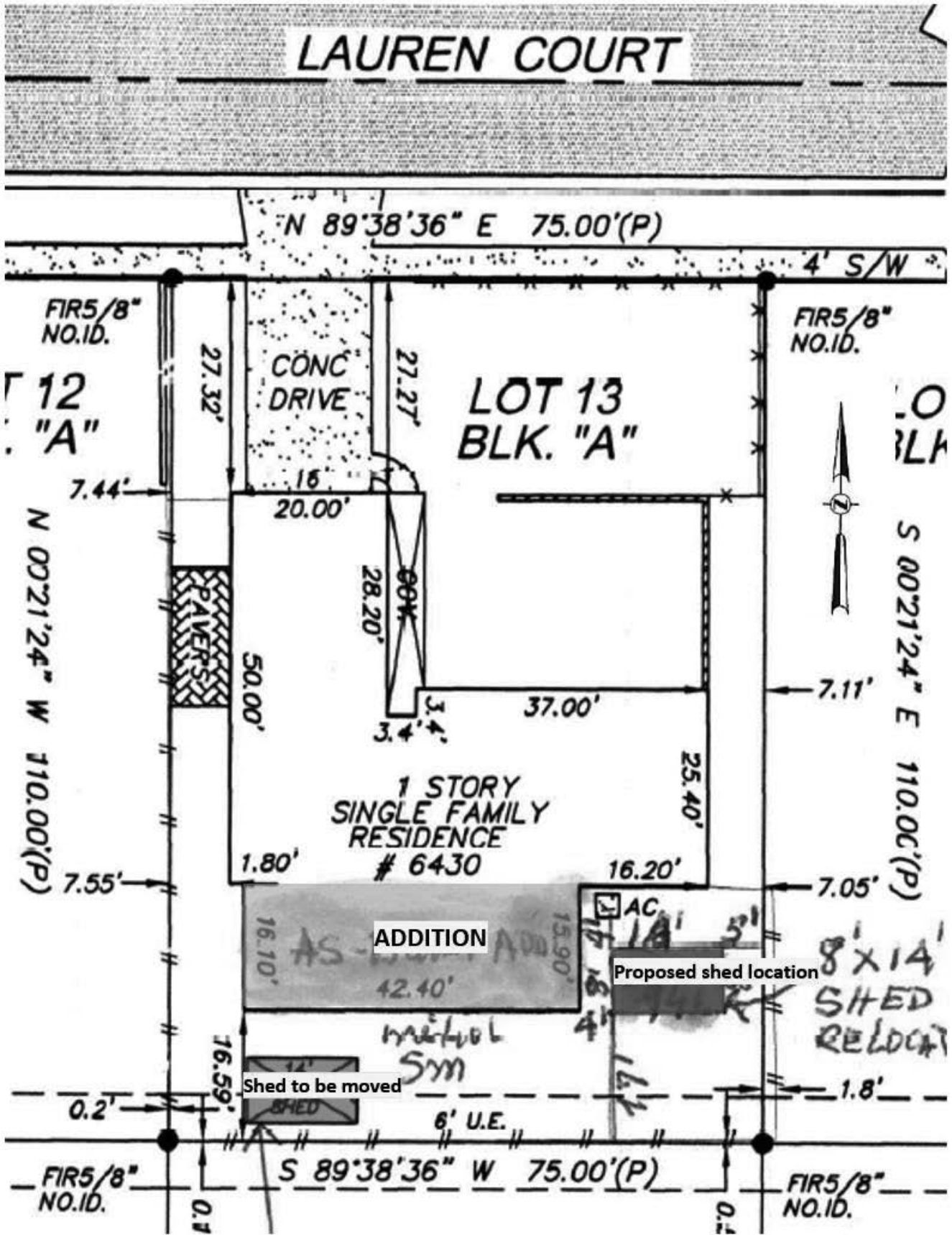
ZONING MAP



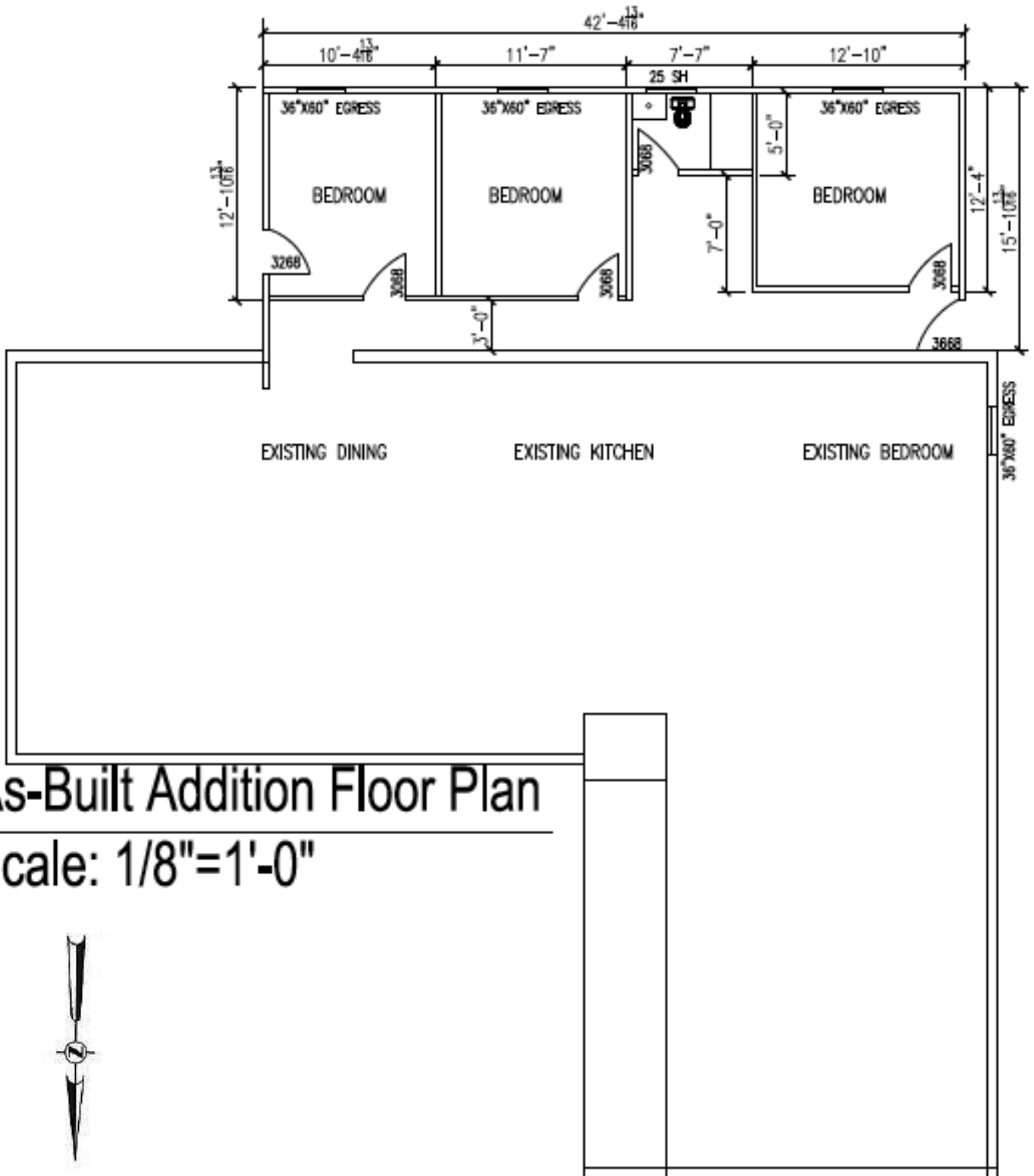
AERIAL MAP



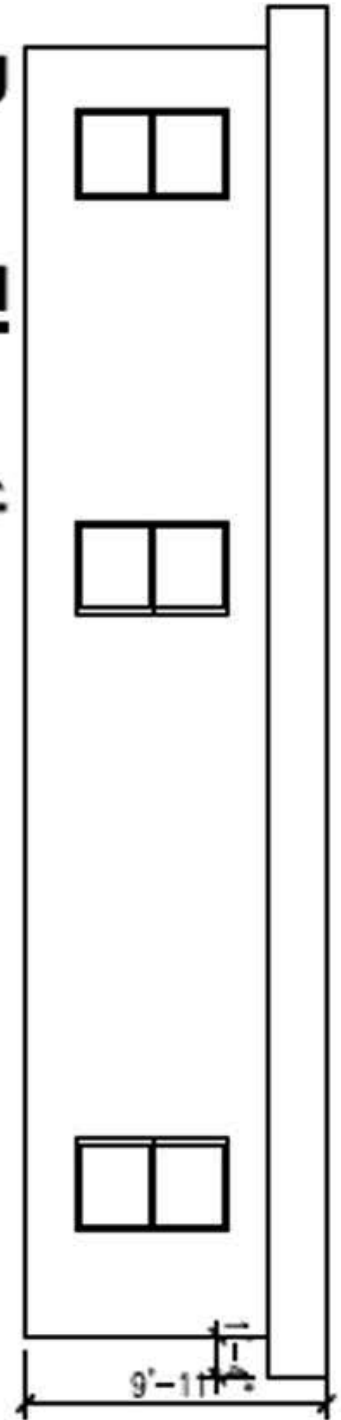
SITE PLAN



FLOOR PLAN

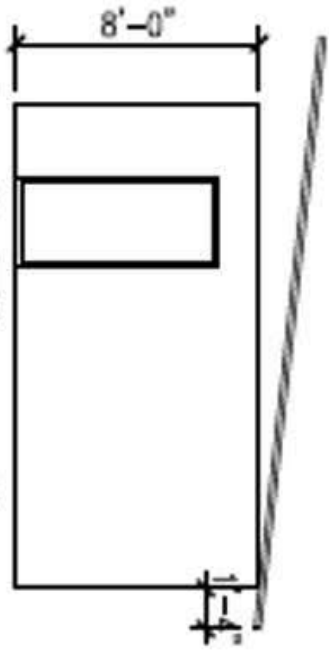


ELEVATIONS



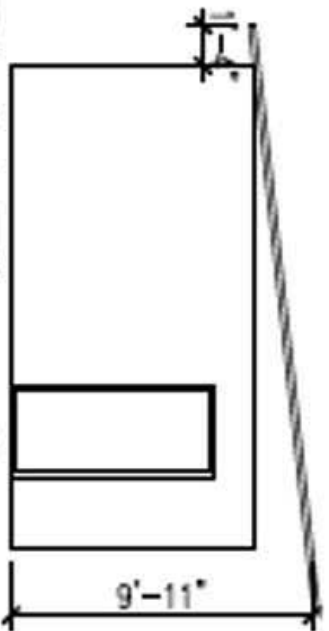
Rear Elevation

South



Left Elevation

West



Right Elevation

East

SITE PHOTOS



Front from Lauren Ct. facing south



Addition and shed facing west

SITE PHOTOS



Addition facing west



Addition facing east

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **APR 06, 2023**

Commission District: **#5**

Case #: **VA-23-05-014**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): ROBERT MURDOCK FOR PINECREST CREEK ACADEMY

OWNER(s): LEE ROAD SCHOOL PROPERTIES LLC

REQUEST: Variances in the Restricted C-2 zoning district for the installation of an Electronic Message Center (EMC) sign as follows:

1) Variance to allow an east side setback of 0 ft. in lieu of 10 ft.

2) Variance to allow a 33.53 sq. ft. ground sign in lieu of 17.98 sq. ft.

PROPERTY LOCATION: 1100 Lee Rd., Orlando, FL 32810, south side of Lee Rd., northeast of Edgewater Dr., west of Interstate 4.

PARCEL ID: 03-22-29-0000-00-072

LOT SIZE: +/- 4.8 acres

NOTICE AREA: 700 ft.

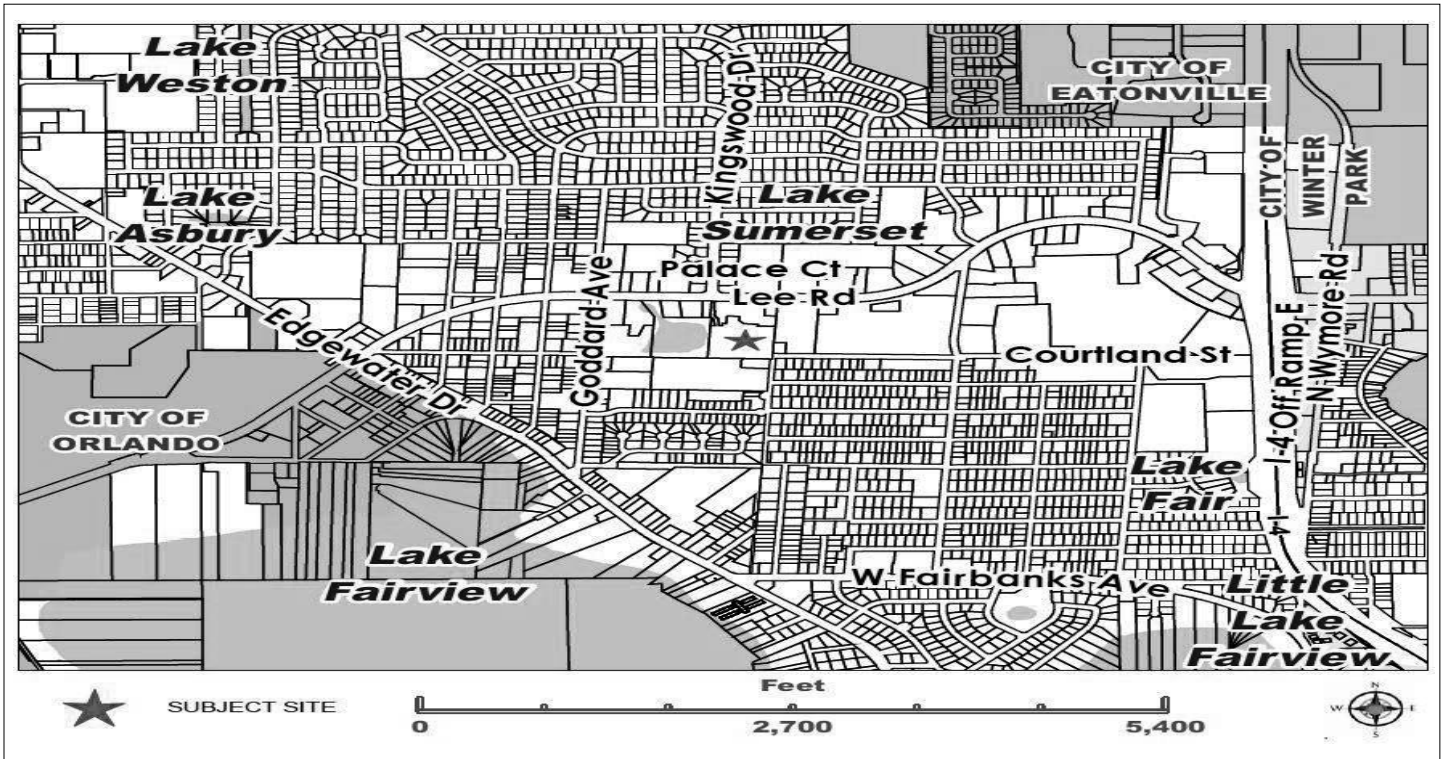
NUMBER OF NOTICES: 145

DECISION: **CONTINUED TO THE MAY 4, 2023, BZA HEARING** (Motion by Deborah Moskowitz, Second by John Drago; unanimous; 6 in favor: Thomas Moses, John Drago, Deborah Moskowitz, Joel Morales, Charles Hawkins, II, Roberta Walton Johnson; 0 opposed; 1 absent: Juan Velez).

STAFF RECOMMENDATIONS

Denial. However, if the BZA should find that the applicant has satisfied the criteria necessary for the granting of the Variances, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	RSTD C-2, R-1A	RSTD C-2, R-1A	RSTD R-2	C-2, R-1A	RSTD C-2, R-1A
Future Land Use	C, LDR	C, LDR	LMDR	C, LDR	C, LDR
Current Use	School	Commercial	School, Single-family residential	Commercial, Single-family residential	Commercial, Retention

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the R-1A and Restricted C-2 zoning districts. The southern portion is within the R-1A, Single-Family Dwelling district, which allows single-family homes and requires a minimum lot area of 7,500 sq. ft. Certain uses, such as schools, are permitted through the Special Exception process. The Future Land Use for the southern portion of the property is Low Density Residential (LDR), which is consistent with the R-1A zoning district. The northern portion is within the Restricted C-2 General Commercial District, with the restriction of C-1 uses which allows for restaurants, retail stores, offices, and various other commercial businesses. The Future Land Use for the northern portion of the property is Commercial (C), which is consistent with the C-2 zoning district.

The subject property is a +/- 4.8 acre flag shaped lot with 35.96 ft. of frontage on Lee Rd., and a 290 ft. long access to the property in the rear. The lot conforms with the zoning regulations for size and width. It is developed with a 12,133 gross sq. ft. school building, constructed in 1963. The applicant purchased the property in 2015.

The school campus is located on the southern portion of the property, within the R-1A District. In November 2007, a Special Exception (SE-07-11-036) was approved on the R-1A (south) portion of the property to expand the existing school.

The request is to allow 6.6 ft. high electronic message center ground sign with 33.53 sq. ft. of copy area, zero ft. from the east side property line. As stated, the property is flag shaped with 35.96 ft. of frontage along Lee Rd. The “flagpole” entrance is the northern portion of the property, within the Restricted C-2 General Commercial District, with the restriction of C-1 uses. There is currently an existing 6 ft. high directional sign with 6 sq. ft. of copy area on this part of the property, which is proposed to be replaced with an electronic message center ground sign in the same location as existing. Per Sec. 31.5-76, one 6 ft. high onsite directional sign with 6 sq. ft. of copy area with a 3 ft. setback from the right-of-way line with a zero-side setback, is allowed. However, per Code Sec. 31.5-67(g), ground signs must be set back 10 ft. from property lines. The request for a zero (0) ft. east side setback requires Variance #1. Per Code Sec. 31.5-15(a)(1), a total of 0.5 sq. ft. of copy area for ground signage may be allowed for each one (1) linear foot of right-of-way frontage. The 35.96 ft. of frontage allows for 17.98 sq. ft. of copy area, and the request is for 33.53 sq. ft. of copy area, requiring Variance #2. An electronic message center sign is not allowed for a directional sign.

The proposed sign location is appropriate since the property is very uniquely shaped with the road frontage being measured from the flagpole portion of the lot which is 35.96 ft., rather than the portion of the lot where the building is located, which is 470 ft. However, a smaller sign such as the existing directional sign, which allows for a zero (0) ft. setback, would eliminate the need for the Variances.

As of the date of this report, no comments have been received in favor or in opposition to this request.

Development Standards

	Code Requirement	Proposed
Max Sign Height:	15 ft.	6.6 ft.
Min. Lot Width:	100 ft.	470 ft. at building setback line.
Min. Lot Size:	8,000 sq. ft.	210,338 sq. ft.

Sign Setbacks

	Code Requirement	Proposed
Front:	10 ft.	11.3 ft. (North)
Rear:	10 ft.	680 ft. (South)
Side:	10 ft.	0 ft. (East Variance #1) 21 ft. (West)

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

The special conditions and circumstances particular to the subject property are the unique flag shaped lot with limited road frontage, resulting in a smaller allowance for sign size and limited area to meet the side setbacks.

Not Self-Created

The requests are self-created since a smaller sign could be proposed, or a directional sign could be used, as existing, which would be allowed with a zero (0) ft. setback, albeit without an EMC component.

No Special Privilege Conferred

Approval of the requests will not confer special privilege, as there are other properties in the area that have similar signs in similar locations but did not require Variances due to having much greater lot width/road frontages.

Deprivation of Rights

There is no deprivation of rights as the applicant has the ability to install smaller signage that would conform, or continue to utilize a directional sign, which would be allowed with a zero (0) ft. setback.

Minimum Possible Variance

The requested Variances are not the minimum, since the applicant has other alternatives to reduce the request, comply with the requirements of the sign code, or utilize a directional sign, as existing.

Purpose and Intent

Approval of these requests would be in harmony with the purpose and intent of the Zoning Regulations and will not be detrimental to the surrounding neighborhood, as the appearance from the street would be similar to other properties in the area with signs in similar locations relative to the front setback.

CONDITIONS OF APPROVAL

1. Development shall be in accordance with the site plan and sign specifications received March 16, 2023, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.

C: Robert Murdock
4716 Powerline Rd.
Deerfield Beach, FL 33073

Overview

Pinecrest Academy is requesting a variance to allow for a 14 square foot Electronic Message Center to be incorporated into a new monument sign on the property. Pinecrest Academy serves its community of families and students and requires the ability to communicate with the public using this tool. It would be used to display crucial information that is vital for the families that they serve, as well as the neighboring community. The digital marquee is part of the school's Safety and Security Procedure Plan and would be used in the event of a sudden emergency or notification in the event of a threat. It will also be used for parental outreach and reminders of teacher planning days, early release schedules and school recess announcements as well as community events.

1. Special Conditions and Circumstances

It has been determined that the sign meets code in regard to its size and position on this commercial zoned section of their property. Current code however only allows for an area for the message center that is equal to or not more than 25% of the proposed copy area. This would result in an Electronic Message Center that would be only 4 square feet in size. A 4 square foot message center would not offer the functionality necessary as it would not afford readability and would potentially be a hazard to the community because the copy or text would be too small to read.

2. Not Self-Created

These special conditions are not as a result of any actions on the part of this applicant. The applicant has not by their own conduct created the hardship which are alleged to exist.

3. No Special Privilege Conferred

The request for a variance will provide for the safety and well-being of the student and family population and is not intended to provide any special privilege.

4. Deprivation of Rights

Literal interpretation of the provisions of this code would deprive both the applicant and the community of a crucial informational and safety tool causing an unreasonable hardship. The request is not related to any financial loss issue or business competition issue. It is simply a community service.

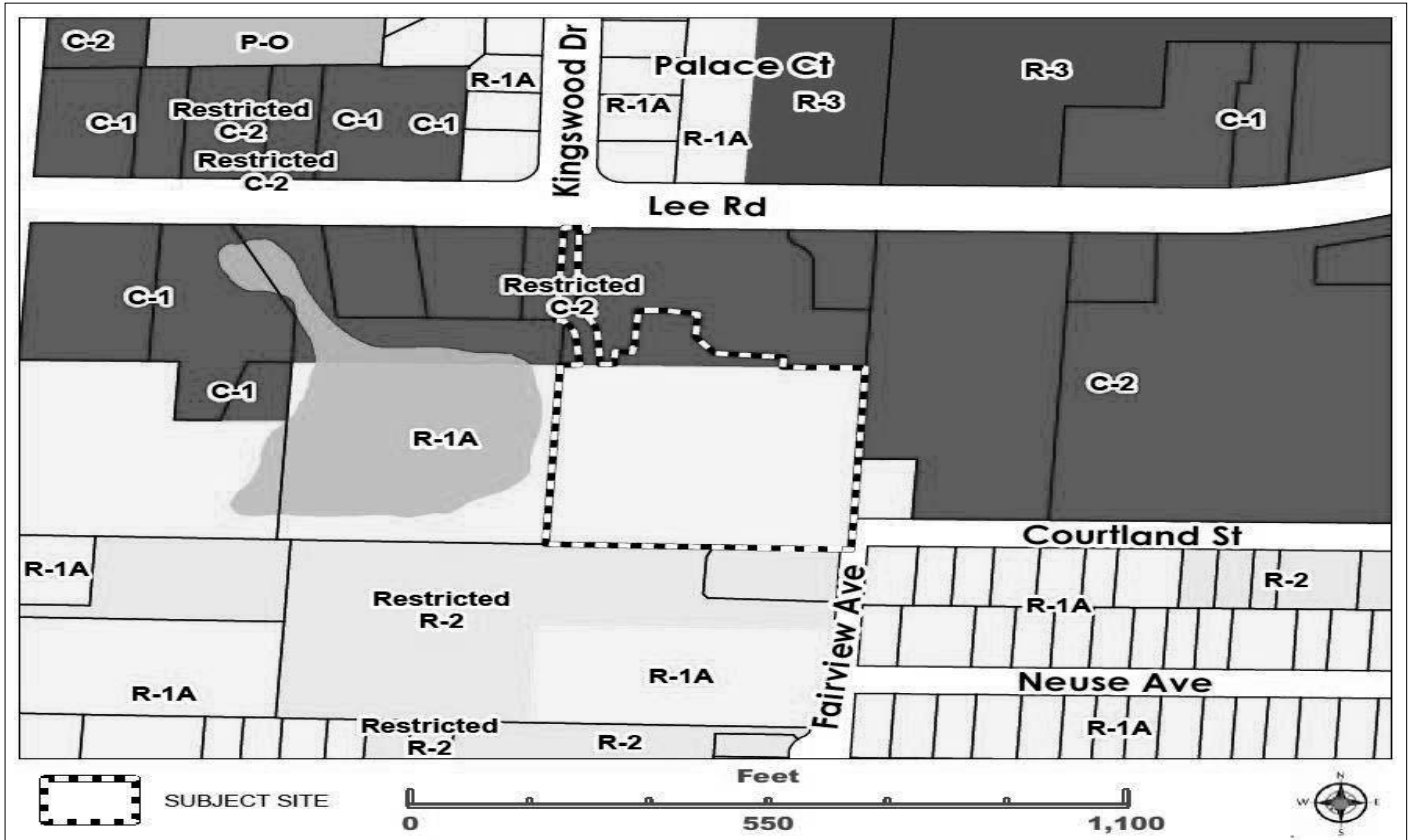
5. Minimum Possible Variance

Permitting the 14 sq foot Electronic Message Center in this structure is the minimum variance that will make possible the reasonable intended use of this crucial communication tool.

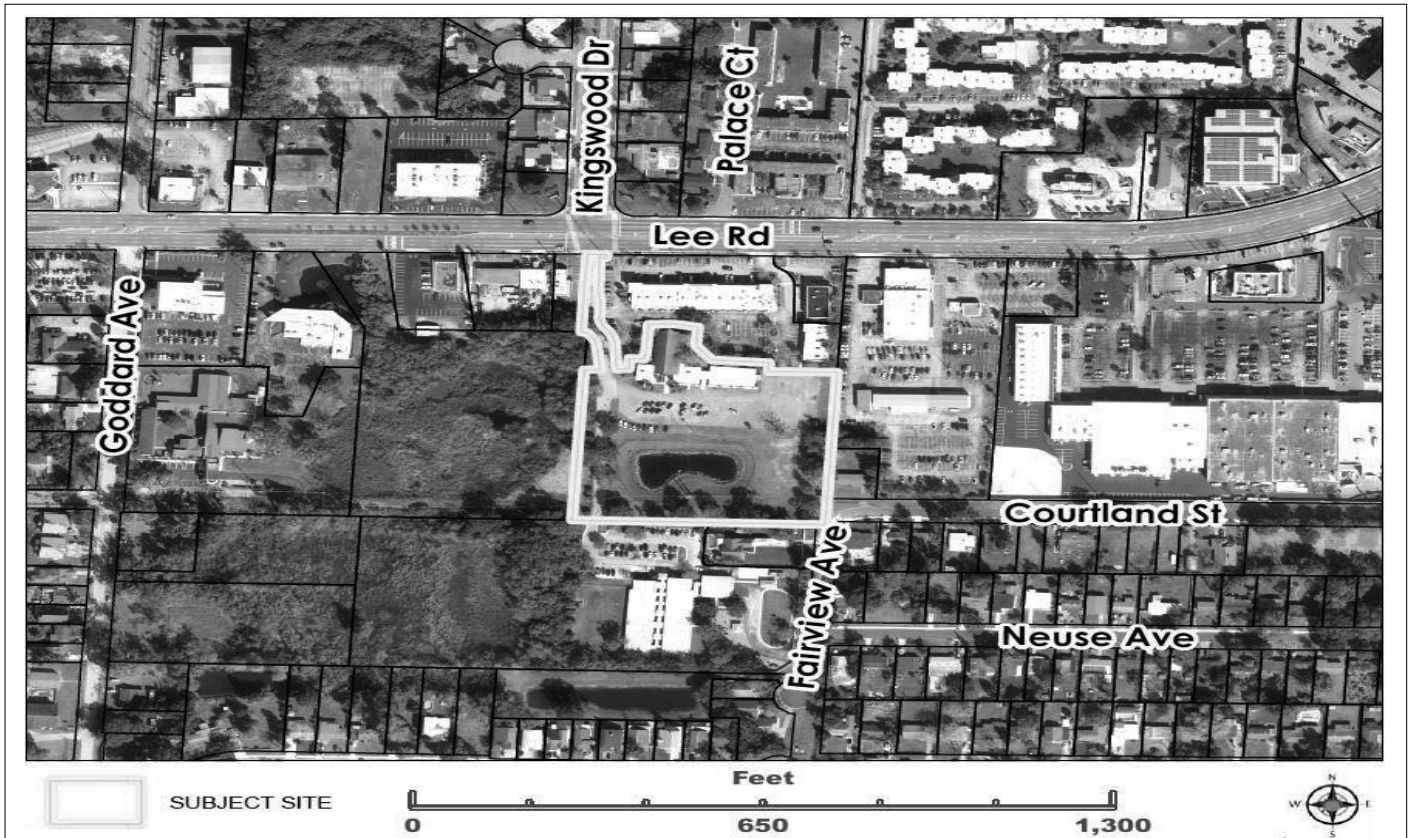
6. Purpose and Intent

This Electronic Message Center at this size would be used to display crucial information that is vital for the families that Pinecrest Academy serves, and would be used in the event of a sudden emergency or notification in the event of a threat. It will also be used for parental outreach and reminders of teacher planning days, early release schedules and school recess announcements as well as community events.

ZONING MAP



AERIAL MAP



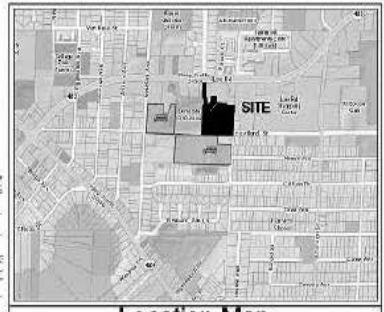
ALTA/ACSM SURVEY

SECTION 3, TOWNSHIP 22 SOUTH, RANGE 29 EAST

Orange County, Florida

Parcel ID # 03-22-29-0000-00-072

TOTAL AREA OF PROPERTY SURVEYED = 209,789.1 SQUARE FEET = 4.8181 ACRES



Legal Description:
PARCEL 1:
 A tract of land lying in Section 3, Township 22 South, Range 29 East being described as follows: begin at the Southwest corner of the Southwest Quarter of the Northeast Quarter of said Section 3; thence run South 00 degrees 05 minutes 06 seconds East, along the East line of those lands described as Exhibit 'A', Official Records Book 6622, Page 2100 of the Public Records of Orange County, Florida, 47.44 feet; thence, South 85 degrees 05 minutes 30 seconds West, along the South line of said lands, 470.02; thence departing said South line, run North 00 degrees 00 minutes 35 seconds West, 591.52 feet; thence run North 87 degrees 24 minutes 25 seconds East, 81.80 feet; thence run North 01 degrees 00 minutes 20 seconds East, 01.10 feet; thence run South 83 degrees 05 minutes 40 seconds East, 26.84 feet; thence run North 01 degrees 00 minutes 20 seconds East, 10.40 feet; thence run South 85 degrees 05 minutes 40 seconds East, 2.16 feet; thence run North 01 degrees 06 minutes 37 seconds East, 79.91 feet; thence run North 55 degrees 36 minutes 58 seconds East, 45.99 feet; thence run South 84 degrees 45 minutes 29 seconds East, 48.41 feet; thence run South 91 degrees 05 minutes 37 seconds West, 49.00 feet; thence run South 42 degrees 48 minutes 30 seconds East, 47.05 feet; thence run South 83 degrees 05 minutes 40 seconds East, 106.00 feet; thence run North 01 degrees 00 minutes 20 seconds East, 22.10 feet; thence run North 87 degrees 24 minutes 25 seconds East, 128.00 feet; to the East line of said Southwest Quarter of the Northeast Quarter of said Section 3 and said East line of those lands described as Exhibit 'A'; thence, South 00 degrees 05 minutes 06 seconds East, 340.87 feet to the Point of Beginning.

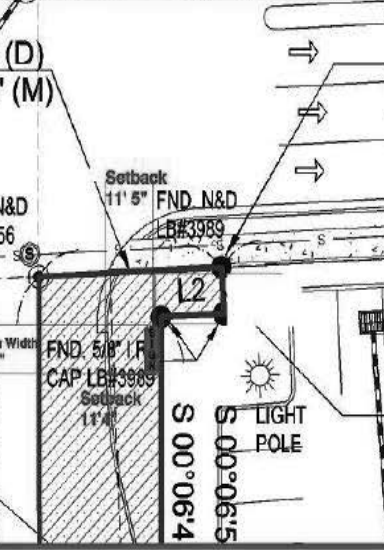
Together with the following described property:
 A tract of land being a portion of that certain Warranty Deed as recorded in Official Records Book 7253, Page 3480, Official Records Book 7253, Page 3485, Official Records Book 1887, Page 895, and Official Records Book 9822, Page 2108, Public Records of Orange County, Florida, lying in Section 3, Township 22 South, Range 29 East being described as follows:
 Commence at the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 3 for a point of reference, thence run North 00 degrees 05 minutes 06 seconds West, along the East line of the Southwest quarter of the Northeast quarter, a distance of 504.85 feet to the South right-of-way line of State Road No. 438 (Lee Road); thence run South 87 degrees 24 minutes 25 seconds West, along said South right-of-way line, 445.32 feet to a point lying on the East line of that certain Warranty Deed as recorded in Official Records Book 7253, Page 3485 of said Public Records; said point being the Point of Beginning; thence departing said South right-of-way line, run South 02 degrees 59 minutes 35 seconds East, 8.00 feet; thence run South 57 degrees 24 minutes 25 seconds West, 12.29 feet; thence run South 00 degrees 05 minutes 06 seconds East, 90.39 feet to a point on a non-tangent curve concave Westwardly; thence run Southwesterly, along said non-tangent curve, having a radius of 127.00 feet, a central angle of 13 degrees 20 minutes 03 seconds, an arc length of 29.59 feet, a chord length of 28.82 feet and a chord bearing of South 00 degrees 05 minutes 06 seconds East to the Point of Beginning; thence run Southwesterly, along said curve, having a radius of 47.00 feet, a central angle of 41 degrees 40 minutes 35 seconds, an arc length of 34.19 feet, a chord length of 30.44 feet and a chord bearing of South 20 degrees 07 minutes 10 seconds East to the point of reverse curvature of a curve concave Southwesterly; thence run Southwesterly, along said curve, having a radius of 77.00 feet, a central angle of 37 degrees 21 minutes 37 seconds, an arc length of 50.21 feet, a chord length of 49.32 feet and a chord bearing of South 23 degrees 08 minutes 39 seconds East to the point of tangency; thence run South 04 degrees 25 minutes 06 seconds

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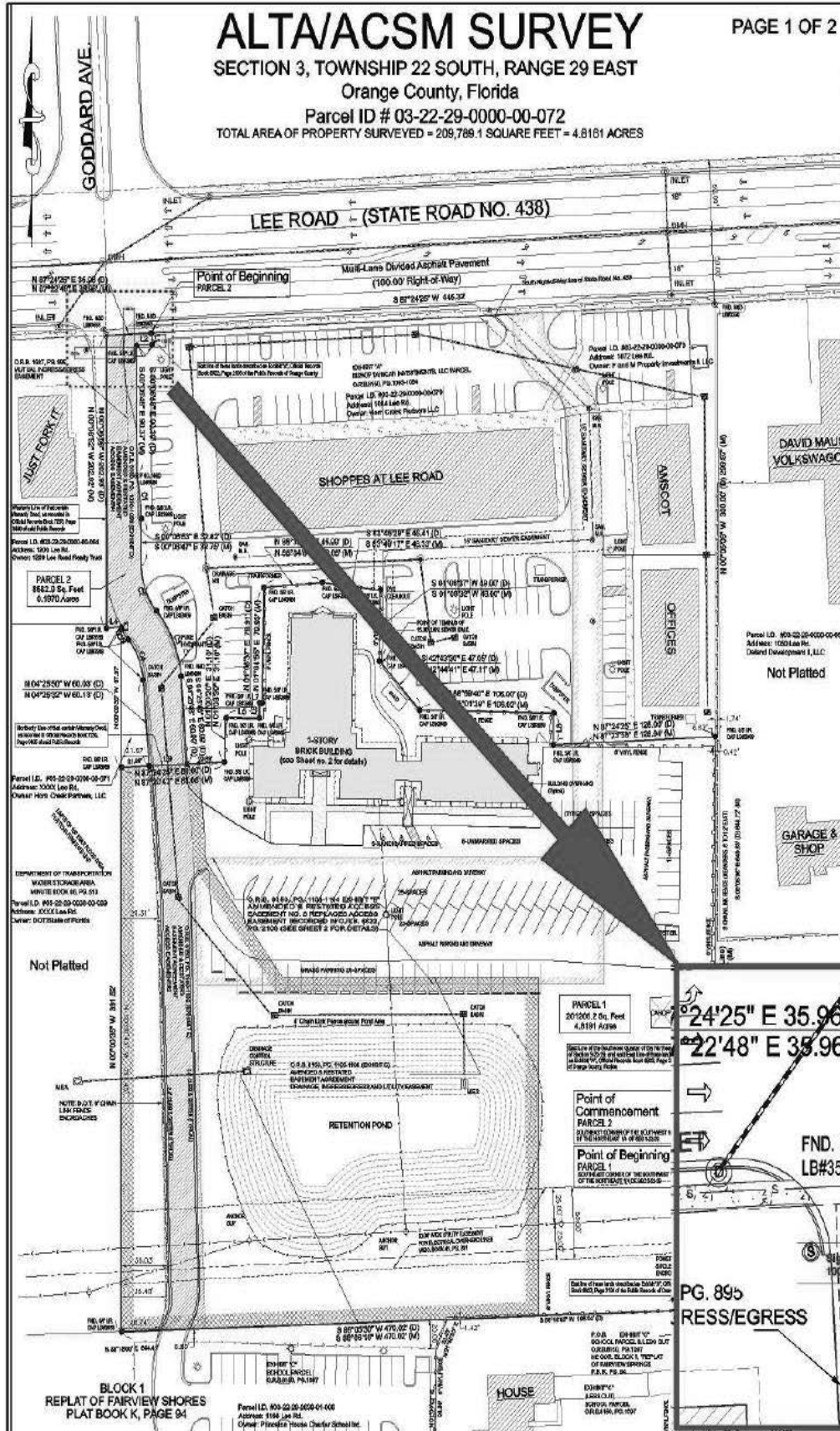
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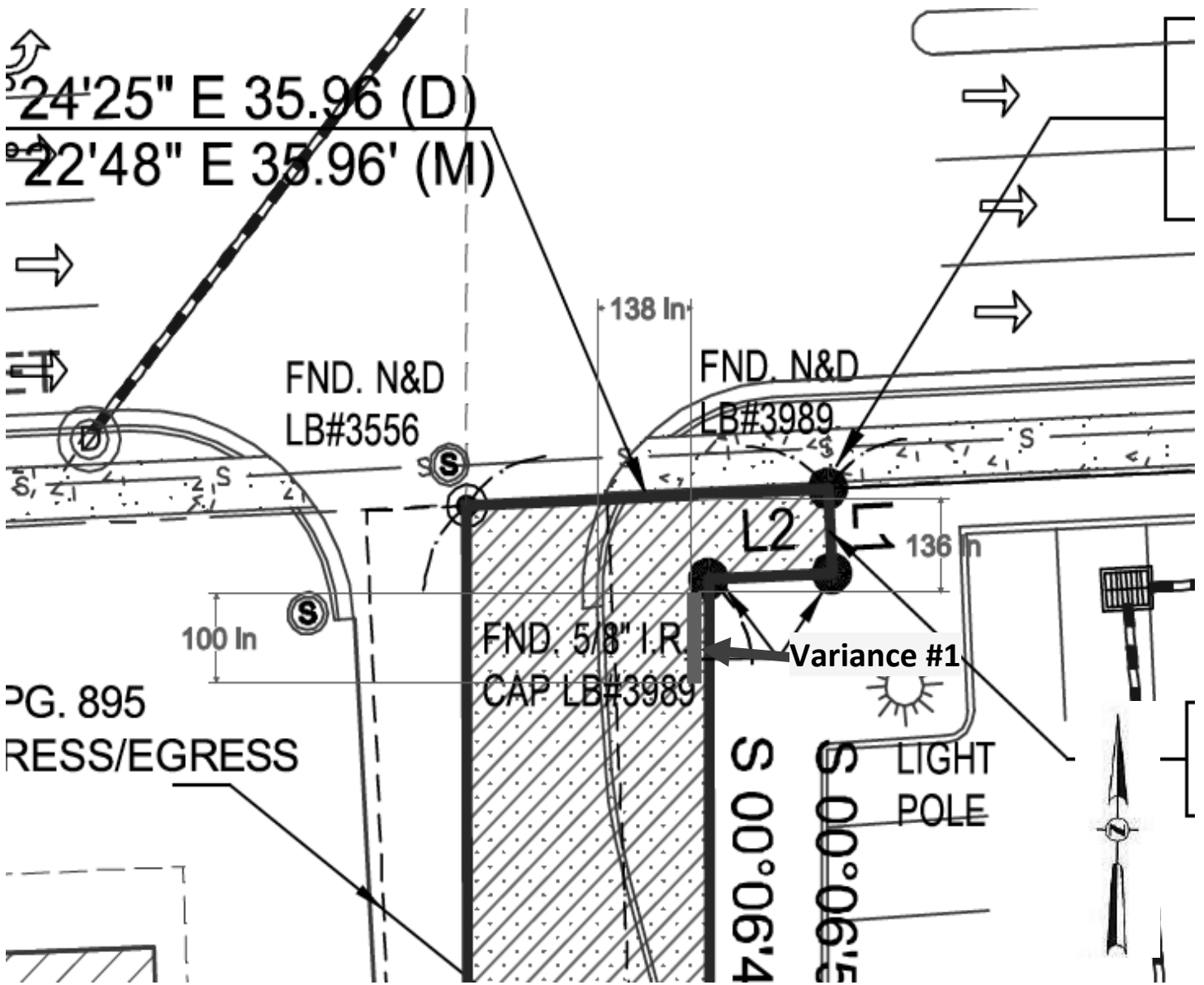
Point of Beginning
 PARCEL 2
 SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 3

Point of Commencement
 PARCEL 2
 SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 3

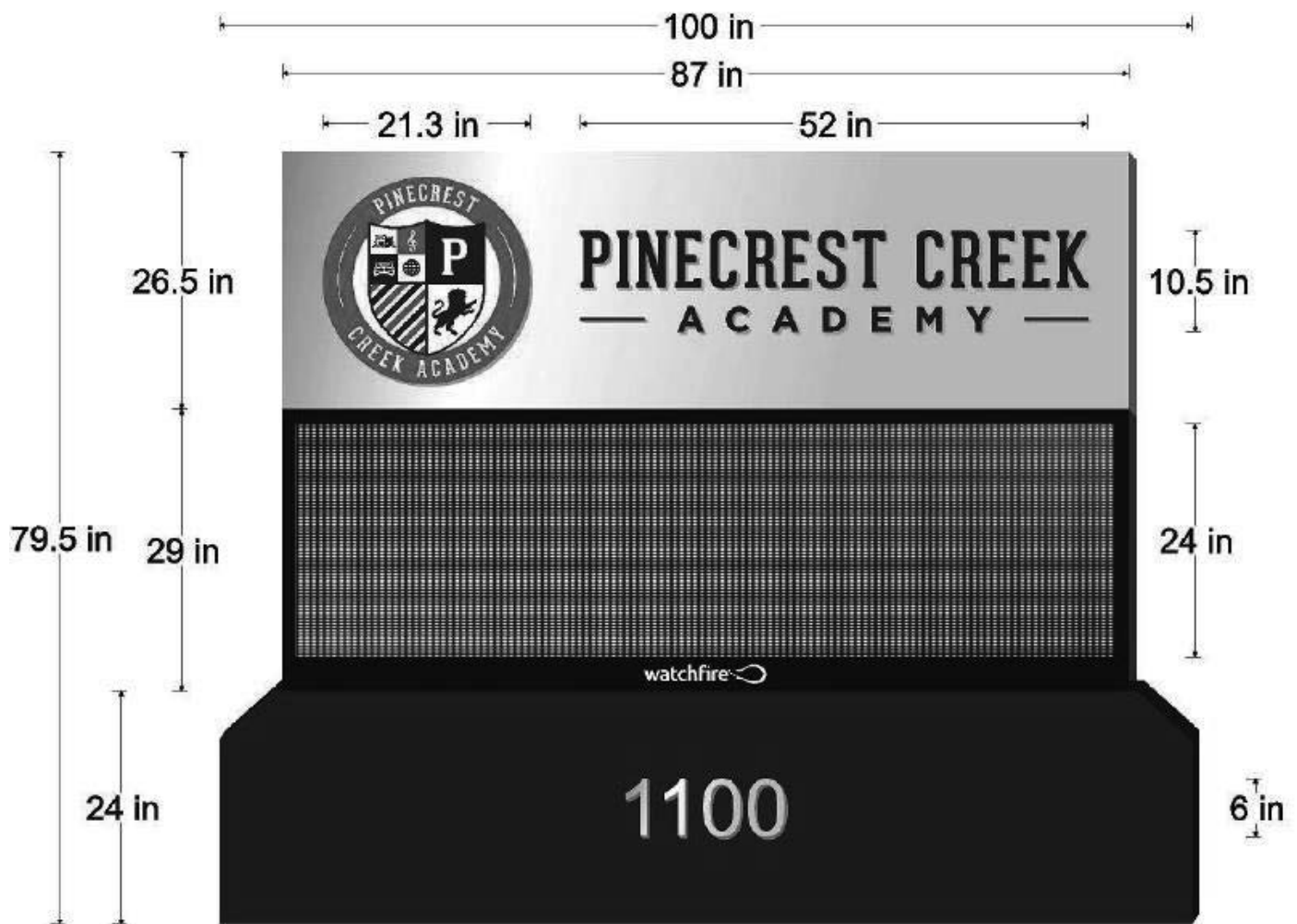
Point of Beginning
 PARCEL 1
 SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 3



SIGN LOCATION DETAIL



SIGN ELEVATION



Custom Monument Sign
Aluminum Construction, Double Sided
Top Cabinet Illuminated with White LEDs
1/2" Push-Thru Acrylic Copy and Logo
1/4" Flat Cut Non-Illuminated Address #
EMC Unit: 10mm Pixel Pitch
Viewing Area: 84"W x 24"H
Overall Size of Sign: 100"W X 79.5"H

JM

SITE PHOTOS



Entrance to property and existing sign from Lee Rd. facing south



Existing sign facing east

SITE PHOTOS



Existing sign facing south



Rear part of property with school building facing east



BOARD OF ZONING ADJUSTMENT
201 S. Rosalind Ave.
Orlando, FL 32801